

**STUDY OF THE EFFECTIVENESS OF DRUG AND ALCOHOL ABUSE PREVENTION
PROGRAMS IN THE FIRE SERVICE**

EXECUTIVE ANALYSIS OF FIRE SERVICE OPERATIONS IN EMERGENCY
MANAGEMENT

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ABSTRACT

The problem was the Vancouver Fire Department (VFD) had never evaluated its substance abuse prevention program.

The purpose of this project was to review substance prevention abuse programs for effectiveness and compare them with the VFD program.

The research method used was a descriptive research methodology, which was used to answer the following questions:

1. What do the data show as the effects of various practices on workplace substance abuse?
2. What do the data show is the impact of substance abuse programs on firefighter injuries, and fatalities?
3. Are there outcome measurements that demonstrate the effectiveness of substance abuse policies?
4. How does the VFD substance abuse program compare with other organizations in their approaches?
5. If there are changes, how should they be implemented with regard to bargaining agreements, costs, and legal issues?

Procedures used to conduct this research included; (a) studying existing programs; (b) studying existing pertinent literature; and (c) searching literature from the Internet.

The results of the project showed that there are different approaches to substance abuse prevention programs throughout workplaces. Results showed that while substance testing is prevalent, there has been a lack of methodological research.

Benefits revolved around the following issues: (a) meeting legal requirements; (b) providing for workplace and public safety; (c) ensuring employee fitness-for-duty; (d)

reducing injury and absenteeism, while increasing job performance and productivity; and (e) providing for employee rehabilitation.

Recommendations included: (a) substance abuse prevention programs should be part of a comprehensive approach to treating a medical problem; (b) programs should be developed between the employer and the employees; (c) programs should screen for alcohol, illicit and legal drugs determined by level of impairment; (d) programs should pertain to public safety sensitive positions; (e) confidentiality is essential to any program; and (f) seek funds for program development.

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INTRODUCTION

The City of Vancouver (COV) and the VFD have policies regarding substance abuse. These substance abuse testing policies require or recommend that testing is done for pre-employment screening, when there are motor vehicle accidents involving death or injury, or when a supervisor has a reasonable suspicion of observed behavior or the appearance that is characteristic of alcohol misuse or drug abuse. Employees of the VFD are expected to set the highest standard for job performance and capabilities with regard to substance abuse. The community expects firefighters to be unimpaired by drugs or alcohol while on duty. Despite having these policies in place, the VFD has never evaluated the effectiveness of its substance abuse prevention program.

Factors which influence a fire department's desire to prevent drug and alcohol-impaired employees include the cost of possible liability for damages caused in the course of performing job functions, the prevalence of controlled medications at each fire station that have the potential for abuse, and the loss of public image upon which fire organizations depend. Other possible factors are the loss of employee and organizational productivity, the costs associated with the termination of an employee who is caught abusing drugs or alcohol, and the legal standards and requirements to which public safety organizations are subject.

This study uses a descriptive research methodology, which is defined as determining and reporting the present status of something to clarify, and to report the way things are at the present time (United States Fire Administration, 2002, p A-8). The research questions to be answered by this project include the following:

1. What do the available data show as the effects of various prevention practices on workplace drug and alcohol abuse?

2. What do the available data show is the impact of drug and alcohol abuse programs on firefighter injuries, accidents and fatalities in the workplace?
3. Are there objective outcome measurements that can demonstrate the effectiveness of drug and alcohol substance abuse prevention policies?
4. How does the VFD drug and alcohol abuse workplace prevention program compare with other public entity and private company workplaces in approach and effectiveness?
5. If there are recommended changes, how should they be implemented with regard to such concerns as bargaining agreements, costs, staffing, legal issues, sustainability, ongoing measurement of program effectiveness and what should be the evaluation cycle?

BACKGROUND AND SIGNIFICANCE

There are a multitude of different approaches and ideas in the workplace with regard to drug and alcohol abuse prevention in the United States, within the fire service, and specifically at VFD. The VFD approach has been to develop a reasonable suspicion policy and do testing when:

1. pre-employment screening, 2. a supervisor recognizes there may be a problem, 3. there is an accident that causes injury or fatality, or 4. the employee receives a citation for a moving traffic violation.

Employees are prohibited from working after using substances in a manner that their work performance is considered to be impaired. The prohibition includes a positive drug test result (COV employment policies, 2002, p. 3-15). Alcohol is also mentioned in the policy with similar language. The policy stipulates that employee and supervisor education are important components of the program. This, of course, is critical so that everyone in a position of authority is able to recognize the signs and symptoms of what constitutes impaired behavior from drugs

and alcohol. Unfortunately, the training for all of the employees in this regard has been severely lacking or inconsistent at the VFD.

Another problem is the VFD has received several large federal grants over the last two years and could possibly be considered out of compliance with some of the requirements of the 1988 Drug Free Workplace Act which requires recipients of federal grants over \$25,000 to have certain prevention policies (Drug Free Workplace Act, 1998, p.1).

This study addresses one of the four operational concerns of the United States Fire Administration objectives: reducing the loss of life for firefighters (USFA, 2001, p. II-2). The course that this study will be applied to is the Executive Analysis of Fire Service Operations in Emergency Management. The link between the course and the study are risk assessment, legal mandates, capability assessment, and emergency operations. The study is further linked to the course by addressing the following questions; are the firefighters or the public at risk of unsafe behavior or job performance from the current VFD drug and alcohol policy? Do the laws of Washington State or the Federal Government mandate that the organization conduct drug and alcohol testing on its employees? Is the current program effective and capable of doing what it is designed to do and are the firefighters at VFD fully capable of performing safe emergency operations?

Drug and alcohol abuse in the American workplace became a major concern during the 1960's and 70's. This was because non-medical drug use in the United States experienced a 20-fold increase from 1955 to 1980 (Rothstein, 1991, p. 67-71; Zwerling, 1993, p. 156). In 1975 the CONSAD Research Corporation conducted a survey of industrial drug use from 197 firms. Roughly one-third of the firms indicated they thought they had a drug problem. This study was undertaken due to the notion that drug use always results in reduced performance and cognitive

and intellectual ability (Potter, 1990, p.11). Workplace drug abuse seems to cut across educational, racial and class lines. The preponderance of workers that use drugs on-the-job are between 20 and 40 years old. The professions and jobs that are prone to drug use are those that have shift work or have tasks that are repetitive and tedious. Health care workers are commonly identified because of the nature of their schedules, stress from the job, and access to drugs. Other industries or occupations where drug use can have a clear danger are those involving public safety. Pilots, railroad engineers, air traffic controllers, truckers, taxi drivers, police, and firefighters are all examples of such professions (Ghodse, 2002, p.5; Potter, 1990, p. 20-21; Rothstein, 1991, p. 73-74).

In doing the research for this study, the author found few studies that were conducted using sound scientific or methodological principles. The existing research has methodological issues that make the data questionable or useless. Most studies fail to scientifically establish a strong relationship between substance abuse, occupational injury and other adverse employment outcomes (Rothstein, 1991, p. 89-90; Zwerling, 1993, p. 155). However, using the United States Government's National Household Survey on Drug Abuse from 1991, estimated that 6 percent of full-time workers were current users of illicit drugs.

What originally caused much of the demand for drug testing in the workplace were several high-profile transportation/drug related injuries and fatal accidents. In January of 1987, a passenger train crashed in Maryland, killing 16 passengers and injuring 174 others. There was also millions of dollars of property damage, and the two employees responsible for the safe operation of the train tested positive for marijuana. It was later that same month that the United States Department of Transportation proposed pre-employment, post-accident, and random testing of employees in safety-related positions. The Omnibus Transportation Employee Testing

Act of 1991 mandated pre-employment, random, reasonable suspicion, and post-accident substance testing for controlled substances and for alcohol (Zwerling, 1993, p. 159-160).

There are four common rationales cited for conducting workplace drug and alcohol testing: safety, productivity, decreasing drug use, and legislative requirements. According to State of Washington Law, WAC 296-800-11025, the employer is required to prohibit alcohol and narcotics from the workplace, and also prohibit employees under the influence of alcohol or narcotics from the worksite. While this law does not specifically state that the employer must do any sort of drug or alcohol workplace screening or use prevention, it is a reasonable assumption that the employer must have a policy to address this issue.

The VFD has such a program, but is it effective? Washington State law mandates a policy, but what policy is most effective? The taxpayers expect their public safety employees to be unimpaired by alcohol and drugs while on duty, but does the VFD reasonable suspicion policy accomplish this? The author undertakes this research to find answers to these questions, and to identify the strengths and weaknesses of the current substance abuse policy at VFD.

LITERATURE REVIEW

The rationale for effective drug and alcohol prevention programs in the workplace

Industries that are public safety or transportation related are the best suited to be studied in their role and development of workplace drug testing in the United States. There have been several well-publicized accidents where alcohol and drugs were determined to have an impact on, or were believed to be the cause of, the accident. A passenger train crash in Maryland with multiple fatalities, the wreck of the *Exxon Valdez* and its horrific environmental consequences, and an aircraft crash on the carrier *Nimitz* with several service members killed are three high-profile examples that had impact on public policy (Zwerling, 1993, p. 161). The fire service

hasn't been immune to its share of trouble in this regard. A New York City firefighter tested positive for cocaine after his involvement in an accident that caused 11 injuries (Firehouse, 2004, p. 64). The City of San Francisco Fire Department has been plagued by reports of on-the-job drinking since 2002, and a civil grand jury report found in 2004 that the department should have known it had a problem with substance and alcohol abuse (Jouvenal, 2005, p. 1). In the City of Akron, Ohio in 2002, one fire department district chief from the training division and another from the financial division tested positive for drug use (Greenwood, 2005, p. 1).

Early research convinced advocates of workplace drug testing that drug-abusing employees had compensable injuries at five times the rate of non-users and also had three to four times more accidents on the job than other employees. It was also asserted that 40 percent of industrial fatalities and 47 percent of industrial injuries were related to alcohol abuse. However, none of these early claims were backed by substantive empirical evidence; when evidence was available it established only a weak link (Wickizer, 2004, p. 92; Zwerling, 1993, p. 161).

Besides the claim of reduction of deaths and injuries that workplace testing proponents use, another claim is that by implementing workplace drug and alcohol screening there would be an increase in productivity with the result from a decrease in absenteeism and turnover. In 1983, United States Senator Dan Quayle made statements regarding a significant decline in productivity in the U.S. workplace. Quayle stated that lost productivity resulted in a \$30 billion a year loss, and that employees that had a drug or alcohol problem missed work 16 times more than an average worker (Zwerling, 1993, p. 162). In two U.S. Postal workplace studies it was found that absenteeism for employees who tested positive for drug use was roughly double that of employees who hadn't tested positive. Three other studies that measured drug use and productivity among young adults raised serious doubts about the connection between drug use

and productivity. In one postal industry study there is evidence of higher rates of absenteeism for drug users, but not in studies of other industries (Zwerling, 1993, p. 186).

Alcohol is viewed differently by society and employers in comparison to illicit drugs. Historically, employers have been reluctant to include alcohol as part of their substance abuse policies. Alcohol use per se does not constitute a violation of law or most company personnel policies, but alcohol is the number one substance of abuse in the United States. In one study of workplace fatalities, drug and alcohol testing of 173 autopsies showed that 23 workers had detectable blood alcohol levels, 11 had detectable amounts of prescription drugs but only one employee had a detectable trace of marijuana (Rothstein, 1991, p. 80-81). In a 1996 study conducted by Hartwell called *Prevalence of drug testing in the workplace*, it was stated that approximately 48 percent of all private workplaces in the U.S. with 50 or more full-time employees conduct drug tests, while only 23 percent conduct alcohol testing. It was also noted that approximately 71 percent of workplaces with 1000 or more employees conduct drug tests and 42 percent conduct alcohol testing. This percentage falls to approximately 40 percent of workplaces with 50-99 employees conducting drug tests and only 16 percent of these sized businesses testing for job-related alcohol use. Overall, workplace programs that test for illicit drug and alcohol use are more than twice as likely to test only for drugs as for alcohol (Hartwell, 1996, p. 1). In another 1996 study by the American Management Association, it was found that over 80 percent of U.S. firms currently test their employees for drug use (AMA Survey, 1996, p. 1).

As noted in the Rothstein article, many researchers believe the workplace has a greater problem with the misuse or abuse of legal medications. Abuse of legal prescription medications

accounts for the majority of drug-related emergency room visits, and 70 percent of drug-related deaths (Rothstein, 1991, p. 81).

Effectiveness of the various workplace programs

In the 1993 study by Zwerling with data taken from medical examiners' autopsies, it was cited that alcohol was detected in the blood in about 10 percent of the fatal occupational injuries. These occupational findings are significantly lower than fatal motor vehicle crashes in which 40 percent of fatalities have alcohol in their blood, or in drownings in which between 40 and 50 percent of fatalities showed alcohol in the victims' bloodstream. In non-fatal occupational injuries, the evidence suggests that alcohol is involved in between 5 and 10 percent of the cases. Unfortunately, these studies also suffer from the same methodological problems or failings that the drug studies did: poor cohort choices, lack of proper definition of the high risk group and improper outcomes measurements, or incorrect outcomes measured.

Regarding fatal occupational injuries and drug use, medical examiner data are not as useful as they were with alcohol in assessing the substance's role, because the presence of drugs such as marijuana or cocaine in the blood stream bears little evidence towards establishing impairment. For this to be an effective study a control group would be necessary, and the author was unable to find a study where this was conducted (Zwerling, 1993, p. 180).

Zwerling goes on to state in this same 1993 report that few studies have carefully examined the link between drug use and occupational injuries. The postal studies were cited which showed between a 50 to 100 percent greater risk of occupational injuries for illicit drug users, but these studies were later found in conflict with similar studies done at other postal facilities where no increased risk for occupational injuries for drug users was found.

A better means of assessing the association between illicit drugs and alcohol is to consider the higher risk profession of heavy truck driving. In 1987 the National Transportation Safety Board conducted a careful study of all fatal accidents. Testing was conducted on 91 percent of these fatalities, and alcohol was found in over 12 percent of the cases, compared to that of 1 percent of the control group. For drugs, the data showed a similar correlation for cocaine and amphetamines, but not for marijuana (Zwerling, 1993, p.182).

In 2004, Wickizer conducted a detailed analysis for the State of Washington on occupational injuries, and found that drug-free workplace programs had a selective, preventive effect for certain occupational groups. Data were studied from 261 Washington State employers that represented a population of approximately 14,500 workers. Their injury rates were compared to a population of 60,000 workers from 20,000 companies. The study covered a seven-year period from 1994 through 2000 and was based using worker's compensation claims data (Wickizer, 2004, p. 91-110).

The model that the employers used for this study was based on the federal Drug-Free Workplace Program enacted in 1988. Companies were broken into eight industry standard groups: (1) Agriculture, Forestry and Fishing; (2) Mining; (3) Construction; (4) Manufacturing; (5) Transportation and Public Utilities; (6) Wholesale and Retail Trade; (7) Finance, Insurance, and Real Estate; and (8) Services. Injury rate differences were examined over time which takes into account the general downward trend in occupational injuries that was occurring in the U.S. during the study period. The study found that drug-free workplace intervention was associated with a statistically significant decrease in injury rates for three groups: construction, service, and manufacturing, with the strongest evidence of an intervention effect being found in the construction industry (Wickizer, 2004, p. 91-110).

In this study, the two key factors that influenced the potential of drug-free workplace programs to reduce injury risk were the background level of injury risk and the prevalence of substance abuse in the workforce. The study by Wickizer noted a concern similar to that identified by the earlier studies in 1991. These studies by Rothstein in 1991 and in 1993 by Zwerling found that the workplace substance abuse prevention industry had grown significantly in size and become exceedingly sophisticated in its marketing ability. Substance abuse testing is a \$6 billion industry and employee assistance programs are at a significant cost to the employer. The studies recommended that workplace programs consider improving workplace safety, but the programs needed to be based upon empirical evidence instead of theory or anecdotal information and must consider the individual, societal, political, and economic implications.

Before any workplace drug-free program went into effect, some employers, especially those in the construction trades, accepted injuries as an inevitable part of the job. When all facets of the drug-free workplace program were put into place, the program appeared to promote a different culture that emphasized safety and the importance of reducing injury risk through substance abuse treatment and prevention activities (Wickizer, 2004, p. 91-110).

Testing in theory and practice

There are many reasons why employers set up drug and alcohol testing programs besides safety and productivity issues. Reasons for testing include pre-employment screening, fitness-for-duty testing, mass screenings, presumptive or reasonable suspicion testing, control of abuse or proof of abstinence, the confirmation of an earlier positive test result, and legal mandates (Potter, 1990, p. 27-30).

In 1986 the federal government passed the Commercial Motor Vehicle Safety Act, which requires that operators of large trucks and buses obtain and maintain a commercial driver's

license. The goal of this act was to ensure that drivers of large trucks and buses were qualified to operate these types of equipment. The act contains a waiver provision that the States may adopt that excludes certain operators such as military personnel, firefighters, emergency response personnel, and farmers. The standard establishes a .04 percent blood alcohol level and language that prohibits the use of controlled substances (fmcsa.gov, 2006, p. 1-6).

In 1988 the federal government enacted the Drug-Free Workplace Act. It requires all organizations that conduct business with or receive funding (\$25,000 or more) from the federal government take several steps to provide a drug-free workplace. In 1991, the federal government passed the Omnibus Transportation Employee Testing Act that requires workplace testing of certain safety-sensitive employees. Industries affected are aviation, commercial motor carriers, maritime, pipeline, railroad, and transit industries. Drugs tested for include marijuana, cocaine, amphetamines, opiates (including heroin, morphine, and codeine), and phencyclidine (PCP). The law requires employees to be tested in the following situations: pre-employment, reasonable suspicion/cause, randomly, return-to-duty, follow-up and post-accident. Drug testing is conducted through urine testing and alcohol testing is conducted by saliva or breath screening and evidential breath testing for confirmation.

The Code of Federal Regulations, Title 49, Part 40 lays out the procedures for workplace drug and alcohol testing programs. It is 103 pages in length, and is a complex set of instructions and procedures for safety-sensitive agencies testing programs. It is considered the gold standard by drug testing industry professionals, but the complexity of this program means that it must be conducted and enforced by professionals (Hagan, 2001, p. 75-78).

Legal issues of testing

Employers have always been concerned about the behavior of employees while on the job because of diminished productivity issues and the potential for accidents. An employee on the job is considered legally to be an extension of the employer and this causes liability concerns for the organization. Employers can be held legally responsible for negligence in hiring and screening practices, and in supervising or retaining dangerous or incompetent employees. Significant legal cases where employers were held liable in such issues were *Otis Engineering Corporation v. Clark*, and *Brockett v. Kitchen Boyd Motor Company*. In these two cases, the employees had left the workplace and caused an accident away from work, and the employer was held liable (Potter, 1990, p. 55-56).

Lack of information about a problem is not a good defense, because employers are expected to be proactive in dealing with drug and alcohol issues. When it involves matters of public safety, the employer is held to the highest standard of action when it comes to injury of a member of the public or another employee (Potter, 1990, p.56).

Public relations are also a valid concern for employers. This is particularly true for example, within the sports industry, where the recent examples over the last several years have caused the players, their respective teams, and Major League Baseball poor publicity and various labor issues (MLB.com, 2006). The manager of the Oakland A's baseball team, Sandy Alderson, was quoted as saying that it wasn't just a question of occupational safety, but the Oakland A's view drug and alcohol testing as an overall organizational statement to their fans. Manager Alderson went on to say that testing also acted as a deterrent and it has affected the negotiations process with many of the team's ballplayers (Potter, 1990, p. 57).

The American Civil Liberties Union disagrees with the concept of indiscriminate workplace drug and alcohol testing because it takes the basic premise that people are innocent until proven guilty and turns it around (Potter, 1990, p.58).

American government employees are protected by the Fourth, Fifth and Fourteenth Amendments in the Bill of Rights. These amendments protect against unreasonable searches and seizures or, self-incrimination and pertain to due process. They may also apply in the public sector in the sense that public sector testing can be federally mandated.

What courts have considered in their decisions regarding challenges to workplace testing programs is the conflict between the compelling interests that the employer has and the employee's expectation of privacy. The most compelling employer interest is that of employee or public safety. The courts usually find in favor of the employer in these cases. Other issues that affect the courts' decisions are the manner in which the tests are conducted, and how the information from the test is disclosed to others. Employees must usually be informed in advance as to the nature of the test and the potential consequences of a positive result (Potter, 1990, p. 75-78; Schottenfeld, 1989, p. 421-422).

For workplace drug and alcohol testing programs to pass all of the legal challenges, Schottenfeld recommends that the following guidelines be met:

1. Programs are part of a comprehensive approach to prevention and treatment of substance abuse.
2. Programs are developed in concert between employers and employees. Where union contracts or membership is involved, the program should be negotiated as part of the labor contract.

3. Alcohol and legally prescribed medications should be included in the program, not just illicit drug use.
4. Alcohol and drug use should be based on impairment standards, not those just meant to detect any illegal drug use. The standards must be relevant to job performance, or concern for the public or employee safety.
5. Employers need to notify employees of their drug and alcohol policies, workplace testing programs and Employee Assistance Programs (EAP). The consequences must be outlined in writing and they must specify under what circumstances the testing will be conducted. The employer must also reveal to whom test results may be disclosed, and must conduct annual refresher courses for its employees about its program. A one-time training at time of hire isn't sufficient to meet the employer's need for employee notification.
6. Individuals that are to be tested should give informed written consent prior to their being tested.
7. Privacy concerns must be met with regard to sample collection and the specimen cannot be tampered with.
8. Testing must be conducted in a manner that guarantees accuracy of results. Only a certified lab that passes regular proficiency testing procedures should be used.
9. Drugs and alcohol that are to be screened for must be identified prior to testing.
10. The employer will inform all individuals that test positive for any substance, and the employee is allowed an opportunity to explain or defend this result.
11. All test results will be kept confidential and disclosed to the organization's medical advisor or the organization's personnel director.

12. With regard to pre-employment testing, rejected applicants should be given an opportunity to reapply after a defined period or after they have completed treatment (Schottenfeld, 1989, p. 413-427).

Overall, the major concern is the protection of the organization from liability for accidents caused by employees because they were abusing substances on the job that caused a level of impairment that affected their performance or job safety. The rights of the employee must always be met, but the company has to be protected from liability. This involves planning and developing a comprehensive organizational policy that deals fairly and adequately with all drug and alcohol problems and issues (Schottenfeld, 1989, p. 425-426).

The VFD substance abuse prevention program

The VFD is required by Washington State Law, WAC 296-800-11025 to prohibit alcohol and narcotics from the workplace. The law does grant employers that distribute narcotics an exemption for having them on hand. The law does mention that it is the employer's responsibility to prohibit employees who are under the influence of alcohol or narcotics from the worksite, but it doesn't spell out how this is to be accomplished. The law also grants an exemption to employees who are under the direction of a physician to take prescription drugs as long as these drugs do not cause the employee to be a danger to themselves or to other employees in the workplace (WAC, 2006).

Since the VFD has received several substantive federal grants of greater than \$25,000 over the last three years, the 1988 Drug-Free Workplace Act is in effect. While the fire service at large has never been held to the standard of the 1991 Omnibus Transportation Employee Testing Act or the 1986 Commercial Driver's License Program, the fact that fire department employees

hold safety-sensitive positions would lend credibility and credence to fire organizations having drug and alcohol prevention programs (Kurt, 1999, p. 198-200; Ludwig, 2003, p. 34)

The State of Washington does not require firefighters to hold and carry a commercial driver's license. The State chooses to use the exemption that the federal CDL act allows.

The VFD doesn't have its own specific drug and alcohol prevention program. However, the COV has such a policy and it is referenced in the COV Employee Policy Section 315-Substance Abuse Prevention article in three separate places. One is in Administrative Guideline #400.8, Employee Assistance Programs. This guideline has one sentence that mentions substance abuse, and references the City Policy Manual which every employee is given a copy of on their date of hire, and is available online through the Citynet website. It is also referenced in two of the three fire department union local contracts.

The 4-page COV Employee Policy, # 315 Substance Abuse Prevention, includes testing for reasonable suspicion, post-offer of employment, voluntary, post-accident, return to work, and random follow up (Appendix A). The policy spells out which employees are covered and how an employee can seek assistance through the program. It discusses the training and education that the City will provide, and the types of drugs or alcohol consumption that are prohibited. The policy includes a list of definitions of semi-technical and technical terms, and what discipline and rehabilitation procedures the City follows. It also includes a list of responsibilities for the employees, managers and supervisors, and human resource employees. The policy also references Washington State Law, RCW 46.25, and the Federal Controlled Substances Act, 21 USC 811 to 812.

Other fire department drug and alcohol prevention programs

The author accessed the Tradenet portion of the United States Fire Administration (USFA) website that members of the fire service can access to ask questions via the Internet of other fire service professionals. The author received four responses via Tradenet, one each from Prince William County Department of Fire and Rescue, one from the City of Casper Fire Department, one from the Town of Derry Fire Department, and one from the City of Johnson City. The author also did an Internet search for fire department policies and found several policies: one from the New Hackensack Fire District, one from the City of Olympia Fire and one from the City of San Jose Fire Department.

The Derry Fire Department Drug and Alcohol Testing Program references the 1991 Omnibus Transportation Employee Testing Act. It is constructed so that it meets the criteria of the Federal Motor Carrier Safety Administration (FMCSA) regulations. It is an 11-page policy that has the following sections: I. Purpose Statement; II. Policy Statement; III. Definitions; IV. Responsibilities; V. Testing; VI. Notice and consent; VII. Testing Techniques; VIII. Consequences; IX. Confidentiality of Results; X. Miscellaneous; and XI. Discipline. It also contains an acknowledgement and certification page where each employee is given a copy of the document and asked to sign for it in front of a witness (Appendix B). The union contract between the Derry firefighters local has a section that references this in the document. While the author isn't an expert in drug testing program construction or legalities, the Town of Derry program and document seems to meet all of the requirements as set forth in the FMCSA regulations (49 CFR 382.601(b)).

The City of Casper document is taken from Section 9 of the labor agreement between the City of Casper, the Casper Fire Department (CFD) and the International Association of

Firefighters (IAFF) Local Union 904. It is a 13-page document (Appendix C) that contains the following sections: I. Consequences of Violation; II. Self Disclosure; III. Applicability; IV. Definitions; V. Procedures; VI. Testing; VII. Testing Methodology; VIII. Handling Test Results, Record Retention, and Confidentiality; an Attachment A. Consent to Test and Release Information; and Attachment B. Rapid Eye Check Incident Report Form.

This policy references the 49 CFR 40 and also Section 202 of the Controlled Substances Act, but from the author's perspective fails to follow any particular form of any federal policy or standard that the author came across in the research conducted. The policy prescribes random drug and alcohol screening of 25 percent of the workforce every year. It also contains a reasonable suspicion testing section that addresses abnormal or erratic behavior, information provided by reliable sources, direct observation, or involvement in an on-duty accident. It also contains a section called *The Rapid Eye Check* system that may be used when an employee is suspected of using alcohol or drugs while on duty. The document spells out that breath and urinalysis testing will be used in pre-employment testing, reasonable suspicion testing, and random testing.

In comparison to the Town of Derry Policy, the Casper document seems to be a compilation of several different approaches to a drug and alcohol prevention program but isn't as comprehensive or readily understandable from a layman's perspective as the Derry program is.

The program for Prince William County Department of Fire and Rescue is an 11-page document (Appendix D) that references Section 202 of the Controlled Substance Act and Schedules I through VI of the Drug Control Act of 1970. It consists of the following sections: 1. Purpose, 2. Authority, 3. Policy, 4. Definitions, 5. Procedure, and 6. Responsibility. The testing for alcohol is conducted by breath or blood specimen testing, while drug testing is first

done through urine screening and positive tests are confirmed using Gas Chromatography/Mass Spectrometry Method. It contains a reasonable suspicion component and also a random component but the methods of random testing are unannounced drug screens. The document also mentions that members will undergo drug screening as a part of their scheduled comprehensive physical assessments, and spells out post-accident drug screening. The Prince William County program also contains a three-page attachment that details the drug screening collection procedure (Appendix E).

The Prince William document or program is most similar to the City of Casper Program with the addition of regularly scheduled testing, and the attachment that spells out the program's drug screening collection procedure.

The next program is that of the City of Johnson City Fire Department. It is an 18-page document (Appendix F) that references the Department of Transportation (DOT) Drug and Alcohol Testing Policy, the Omnibus Transportation Employee Testing Act, and also the Tennessee Drug Free Workplace Act. It consists of the following sections: I. Program Purpose, II. Policy Objectives, III. General Rules, IV. Definitions, V. Drugs to be Tested For, VI. Prior Notice, VII. Consent, VIII. Testing of Designated Positions, IX. City Department Affected, X. Categories of Testing, XI. Refusal to Consent-Applicant, XII. Refusal to Consent-Current Employees, XIII. Confirmation of Test Results, XIV. Consequences-Applicant, XV. Consequences-Current Employee, XVI. Appeal Procedure, XVII. Confidentiality, XVIII. Laboratory Requirements, XIX. Drug Screening Procedures, XX. Breath Alcohol Procedures, and XXI. Signed Acknowledgement.

The policy consists of pre-employment, reasonable suspicion, post-accident, random, return-to-duty, and follow up testing. Drug screening is conducted by urinalysis and alcohol

screening is conducted by breath screening procedures. This policy is applied to all employees of Johnson City that are either required to obtain a Commercial Driver's License (CDL), or have duties that have safety sensitive functions. The random screening consists of testing at an annualized rate of 50 percent for drug use, and 10 percent for alcohol.

This program is the most comprehensive program that the author reviewed. It is similar in nature to the other programs in that it is constructed around federal drug programs currently in place. It differs in the amount of random testing by having one-half of all employees being tested every year.

The program for the New Hackensack Fire District is a three-page document (Appendix G) that references the Federal DOT standards and also references the New York State General Municipal Law or Regulations. It consists of the following sections: Overview, Implementation Date, Definition of Safety Sensitive Functions, Prohibited Conduct, Testing Requirements, Disciplinary Action, Firefighter Self-Referrals, Due Process Requirements, and New Membership Requirements.

The policy covers post-accident, random, regularly scheduled, reasonable suspicion, and follow-up testing. There is a pre-employment drug screen, but no alcohol pre-employment screening. Of the six policies reviewed, this policy was the simplest to understand and had none of the testing or drug specifics of the other policies.

The final program the author compared was that of the City of San Jose and the IAFF Union Local 230. It is an eleven-page document (Appendix H) that does not list any reference to either federal policies, state policies, or legislation. It consists of the following sections: Purpose, Policy, Application, Employee Responsibilities, Management Responsibilities, Confidentiality,

Drug Testing Procedure, Substance Abuse Treatment, Scope of Services, Components, and Recommended Treatment Program.

The policy consists of reasonable suspicion and self-referral sections. There are no pre-employment, post-accident, random, or regularly scheduled components. The policy fails to document the type of testing that will be used to determine if the employee has used drugs or alcohol while on duty. It refers the employee to the City's Employee Health Services for testing during normal business hours, and testing after hours is to be conducted at a medical facility of the employer's choosing. This program heavily stresses the Employee Assistance Program function throughout the document, and in comparison to the other programs it treats substance abuse as a disease or problem that should be dealt with medically in a comprehensive manner.

Private industry drug and alcohol programs

The programs in private industry focus on alcohol and illicit drugs such as marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines. Technologies used to test for these drugs are: breathalyzers, urinalysis, blood, saliva, and hair tests, with urinalysis being the most commonly used procedure for drugs, and breathalyzers being the most common form of testing measure for alcohol.

Tests are conducted for a number of reasons:

- Pre-employment
- Random screens
- Probable cause
- Reasonable suspicion
- Return-to-duty after treatment or rehab
- Transfers or promotions

- Voluntary basis

Nationally the most commonly cited rationale for testing in the private sector comes from Federal requirements of the CDL testing, and this argument comes from the premise of ensuring workplace safety, security and productivity (Jardine-Tweedie, 1998, p. 534-543). According to Rothstein, in the private sector, the main reason for drug testing is pre-employment screening, but reasonable suspicion testing runs a close second (Rothstein, 1990, p. 72).

The author focused on private industry that operates within the State of Washington. Drug and Alcohol testing policies from the University of Puget Sound, and Frito Lay (PepsiCo) were obtained and compared. These two local companies do pre-employment and reasonable suspicion testing, as well as the CDL screening that is required for their commercial vehicle drivers. The author was in direct contact with the Human Resource Director at Nautilus Corporation which is headquartered in Vancouver, WA. and while they have a policy of not releasing employment policies to the public, they were able to share that they do pre-employment drug and alcohol screening, as well as post accident testing.

Washington Court of Appeals Decision

In 2000, the Court of Appeals for the State of Washington rendered a decision in *Kirk Robinson, et al., appellants, v. The City Of Seattle, Respondent*. The City of Seattle had been requiring pre-employment urinalysis drug testing for approximately half of its positions. The appellants challenged the constitutionality of this program. The appeal was based on the U.S. Constitutional 4th Amendment and Washington State Constitution Articles 1 and 7. The Court of Appeals decision was that drug testing constituted a warrantless search without grounds for suspicion and that the City of Seattle had not met the requirement of showing how their program was created in response to a compelling governmental interest. Between the beginning of

December 1997, and the end of June 1998, the City of Seattle screened several thousand applicants for positions for which drug testing was a requirement under their current program, including accountant, administrative assistant, attorney, carpenter, computer operator, counselor, cashier, golf course technician, librarian, security officer, tennis instructor, and many more. Of the thousands tested during this period, between approximately 5 and 6 percent tested positive (Washington Court of Appeals, 2000, p.9)

The Washington State Constitution is more protective of personal privacy than is the U.S. Constitution; the City of Seattle program violated both articles of the State Constitution. The Court went on to say that public safety is a compelling government interest, as in the professions of police and fire departments, but to apply the testing procedures to professions such as librarians or accountants was too broad of an interpretation (Washington Court of Appeals, 2000, p.1).

Data on the impact of substance abuse on firefighter workplace injuries, accidents and fatalities

Since there have been no methodological studies conducted on the impact of drug and alcohol programs in the fire service, the author will attempt to draw correlations from two studies of unrelated industries, those of commercial truck drivers, and the construction and service industries.

The first study was conducted by Swena in 1999, and was published in the *Journal of Drug Testing*. It concluded that there was a statistically significant decrease in fatal truck crashes for the 2 years following the widespread application of the CDL regulations that required random drug screening. This data was taken from the National FARS database called the Traffic Safety Facts 1997, which is compiled by the National Highway Traffic Safety Administration. The data was taken from the eight-year period from 1989 to 1996. The author cited that his analysis did

not establish causation, and that he cannot be certain that the initiation of random drug screening of truck drivers was what was responsible for the reduction of fatal truck crashes. The author did say it was likely that the substance screening was at least partially responsible for some of the observed decrease.

The author did state that there were some methodological problems with this study; the lack of a control group, the database being subject to error from a miscoding of vehicles, and some of the drivers of the vehicles not being subject to screening, which could skew the data.

In closing comments, the author stated that random drug screening may have produced benefits in the first two years, but that these benefits cannot be sustained in later years. The author questions if the costs and regulatory burdens can be justified given the data from this study, and suggests that further analysis and study will need to occur (Swena, 1999, p. 1-13).

The next study was conducted by Wickizer in 2004 on several different industries from the State of Washington. The study used workers compensation claims data after applying a publicly sponsored drug-free workplace program for a seven-year period from 1994 through 2000 in the construction, manufacturing, and service industries as well as others. The study was done with a pre-post design test and a non-equivalent comparison group to assess the impact of the intervention on injury risk. Two hundred sixty-one companies enrolled in the program were compared with over 20,500 nonintervention companies. The study found that there was a statistically significant decrease in injury rates for the three industry groups of construction, manufacturing, and services. The construction and service groups had the larger incidence rate of more serious injuries lasting four days or more. The strongest evidence of intervention was within the construction industry, but the service industry had a significant preventive effect as

well. The study estimated that if the program was applied, it would be expected to yield a small overall estimated cost savings within the construction industry (Wickizer, 2004, p. 91).

An important note in this study was the realization that drug and alcohol prevention programs do offer potential to reduce the occurrence of occupational injuries, but only on a selective basis. The two key factors that influence the potential of drug-free workplace programs are the background level of injury risk and the prevalence of substance abuse in the workforce. They felt the high rate of effectiveness in the construction industry was due to the high injury risk and substance abuse within that industry. The author of this study goes on to caution that the approach to improving safety and health through workplace substance abuse prevention programs should be based upon empirical evidence rather than theoretical or anecdotal information or claims. The author also mention that in industries that have high injury rates these programs help to promote a work culture that emphasized safety and the importance of reducing injuries through substance abuse prevention and treatment activities (Wickizer, 2004, p. 107).

One limitation to the Wickizer study that the author noted was from its quasi-experimental design. Companies that had enrolled in the intervention component had done so on a voluntary basis and therefore may have varied from the comparison companies. The strengths the author noted of this study were: the study length: (because it spanned a seven-year observation period); the injury rates were based on workers compensation injury claims; the intervention and comparison cohorts were made up of a large number of companies throughout different industries; and the author used sophisticated statistical analysis models and analysis procedures.

PROCEDURES

Definitions of Terms

Amphetamine. “It is a synthetic stimulant used to suppress the appetite, control weight, and treat disorders including narcolepsy and ADHD. It is also used recreationally and for performance enhancement. These uses are illegal in most countries. Despite this, it is a commonly abused drug. Amphetamine can be snorted, taken orally, smoked, or injected.” (Reference.com Website, 2006)

Amphetamines. “Analogues or derivatives of amphetamine. Many are sympathomimetic and central nervous system stimulants causing excitation, vasoconstriction, bronchodilation, and to varying degrees, anorexia, analepsis, nasal decongestion, and some smooth muscle relaxation; these agents may be used for fatigue, narcolepsy, parkinsonism, hypotension, or appetite depression; since tolerance is quickly developed, they are potentially prone to abuse and psychic dependence.” (Reference.com Website, 2006)

Anecdotal. “Based on casual observations or indications rather than rigorous or scientific analysis.” (Dictionary.com, 2006)

CDL. Commercial Drivers License. A Federally required license for vehicles in certain weight categories.

“Class A -- Any combination of vehicles with a GVWR of 26,001 or more pounds provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds.

Class B -- Any single vehicle with a GVWR of 26,001 or more pounds, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR.

Class C -- Any single vehicle, or combination of vehicles, that does not meet the definition of Class A or Class B, but is either designed to transport 16 or more passengers, including the

driver, or is placarded for hazardous materials.” (<http://www.fmcsa.dot.gov/registration-licensing/cdl/cdl.htm>, 2006)

Controlled Medications. “Medicines or drugs that are generally subject to special provisions in both state and federal law because of their potential for abuse and dependence. They are grouped into five “Schedules” based on their abuse potential.” (www.aapa.org, 2006)

Empirical. “Verifiable or provable by means of observation or experiment” (Dictionary.com, 2006)

Erratic. “Having no fixed or regular course; wandering; lacking consistency, regularity, or uniformity; deviating from the customary course in conduct or opinion.” (Dictionary.com, 2006)

Illegal Drugs. “Jurisdictions where legislation restricts or prohibits the sale of certain popular drugs.” (Reference.com, 2006)

Illicit. “Not sanctioned by custom or law; unlawful.” (Dictionary.com, 2006)

Impairment. “To cause to diminish, as in strength, value, or quality.” (Dictionary.com, 2006)

Mandate. “An authoritative command or instruction. A command or an authorization given by a political electorate to its representative.” (Dictionary.com, 2006)

Methodological. “A body of practices, procedures, and rules used by those who work in a discipline or engage in an inquiry; a set of working methods. The study or theoretical analysis of such working methods.” (Dictionary.com, 2006)

Phencyclidine. “PCP; A drug, $C_{17}H_{25}N$, used in veterinary medicine as an anesthetic and illegally as a hallucinogen.” (Dictionary.com, 2006)

Presumptive. “Providing a reasonable basis for belief or acceptance. Founded on probability or presumption.” (Dictionary.com, 2006)

Reasonable suspicion. “An objectively justifiable suspicion that is based on specific facts or circumstances and that justifies stopping and sometimes searching (as by frisking) a person thought to be involved in criminal activity at the time.” (Dictionary.com, 2006)

Respondents. “Giving or given as an answer; responsive.” (Dictionary.com, 2006)

Substance. “That which has mass and occupies space; matter. A material of a particular kind or constitution.” (Dictionary.com, 2006)

Substantive. “Substantial; considerable. Independent in existence or function; not subordinate. Not imaginary; actual; real. Of or relating to the essence or substance.” (Dictionary.com, 2006)

Research Methodology

This study uses a descriptive research methodology. The author first determined that the problem statement was comprehensive and clear enough to accomplish the stated purpose as a realistic goal. The author consistently evaluated the outcomes of each factor that was addressed as a result of the research.

In the summer of 2005 the author began the research at the Learning Resource Center of the National Fire Academy. It continued throughout a period of one year and entailed accessing literature available online through the Internet, and accessing Tradenet, the National Fire Academy’s e- mail that goes out to fire organizations and personnel around the world. The author received several responses and copies of policies from fire organizations around the country. The author constructed a confidential e-mail survey of the 180 personnel of the VFD and received 97 responses. The total population of the organization consists of 160 suppression personnel, 10 fire prevention personnel, and 10 administration personnel. The author’s survey (Appendix I) asked questions about the respondent’s knowledge of the organization’s Drug and Alcohol Policy, and the author tried to establish if the respondents had a clear understanding of the VFD policy, and whether the respondents had opinions about what type of policy VFD and

the national fire service should have. The survey was confidential because of the nature of the subject, and the perceived discomfort that the respondents may have about questions of this nature. Personnel were sent the survey via their departmental e-mail, and asked to complete it without signing their names or identifying themselves. The respondents were then requested to print the document out and send it via COV interoffice mail. These methods assured that no one could be identified by their responses, and it allowed for the 55 percent return rate. One reminder e-mail was sent asking for more people to complete the survey after two weeks when the author had only received 60 responses to that point. The author then received the additional 37 responses.

The author did extensive Internet research with regard to both private and public drug and alcohol policies and found numerous public policies in this regard, but private company policies were limited in their availability and response. The author sent out several e-mail and telephone inquiries to different businesses and industries asking for copies of their drug and alcohol programs. This was done to compare and contrast policies from the fire service, the public sector with safety sensitive positions, and the private sector. Companies contacted were IBM, Frito Lay (PepsiCo), General Motors, General Electric, Texaco, United Parcel Service, Nautilus, and Microsoft. The author contacted the International Association of Firefighters asking for information on their recommended program, and their firefighter injury and fatality data. The author also contacted the National Fire Academy for information on firefighter deaths and injuries related to drug or alcohol. The author discussed COV substance abuse policy with the current and former VFD personnel directors, and also an Assistant City Attorney from the COV Law office.

Limitations

Some of the critical research cited was from the early 1990's, but this was the best research available that used sound methodological and scientific approaches. There isn't a large body of sound methodological evidence or studies that address the impacts of drug and alcohol prevention programs on fire organizations. The author had to draw correlations to similar industries where there have been methodological studies. The transportation, construction, and safety-sensitive industries were used as a basis for comparison.

The author was able to obtain numerous copies of other fire agencies' drug and alcohol policies. The companies that did respond to requests for information often cited their policies as proprietary information, or were unwilling to assist in the process of research, citing time or financial constraints. Private companies also mentioned they were reticent in sharing their employment policies out of a concern for public relations effects and legal ramifications. The vast majority of companies that the author contacted either cited these concerns and declined to share their policies, or simply ignored repeated e-mail and phone requests for information.

RESULTS

Research Question 1

What does the available data show as the effects of various prevention practices on workplace drug and alcohol abuse?

As the author's research has found, there is an overall lack of sound scientific research in this field. Theories abound regarding the percentage of the workforce using alcohol and drugs while on the job, and the effect and cost of this substance use. Using the United States Government's National Household Survey on Drug Abuse from 1991, it was estimated that 6

percent of full-time workers were current users of illicit drugs. The drug and alcohol pre-employment testing done by the City of Seattle in 1997 through 1998 confirms these findings. They found between five and six percent of job applicants testing positive for illicit drugs or alcohol.

In the 1993 study by Zwerling, it was stated that alcohol was detected in the blood in about 10 percent of the fatal occupational injuries. This data was taken from medical examiners' autopsies. These occupational fatalities are significantly lower than fatal motor vehicle crashes in which 40 percent of fatalities have alcohol in their blood, or where in drownings where between 40-50 percent of fatalities have alcohol in their bloodstream. In non-fatal occupational injuries, the evidence suggests that alcohol is involved between five and ten percent of the cases. The variances in these numbers may be due to workplace drug and alcohol programs, but there currently is no strong scientific data to confirm or deny this conclusion.

The best study on the effectiveness of workplace drug and alcohol programs was conducted in 2004 for the State of Washington. This study found that the state-sponsored program had a selective industry preventive effect. The results were strongest in the construction, services and manufacturing industries. The two key factors for these industries having the strongest effect were the background level of injury risk and the prevalence of drug or alcohol abuse within that particular workforce. The study found that there was a statistically significant decrease in the injury rates for all three of these groups, with the construction industry having the strongest effect and realizing the most cost savings from the program.

In the 1999 study by Swena using data on fatal truck crashes tracked by post accident testing from national data taken from the years 1989 to 1996, it was stated there was a

statistically significant decrease in fatal truck crashes for the 2 years following the application of CDL drug screening requirements.

Research Question 2

What does the available data show is the impact of drug and alcohol abuse programs on firefighter injuries, accidents and fatalities in the workplace?

The author was unable to find any studies of firefighters that contained direct information on firefighter injuries, accidents, or fatalities with regard to drug and alcohol prevention programs. Correlations can be made to both of the studies conducted by Swena in the transportation industry, and to the Wickizer study of the construction, manufacturing and service industry, but this is only speculative.

The author was in direct contact with several agencies or organizations that could possibly have data in this area. The IAFF, the National Fallen Firefighters Foundation, the City of New York Fire Department, the City of Boston Fire Department, the Fairfax County Fire Department, Cornell University, and the Department of Justice as well as numerous other fire departments around the nation. All of these agencies had anecdotal information on individual cases where either alcohol was identified as a factor in a vehicular accident, or where drugs were mentioned as a possible contributing factor, but privacy concerns were cited. Also, there was a general reluctance to release this type of information in cases of deaths or accidents.

Research Question 3

Are there objective outcome measurements that can demonstrate the effectiveness of drug and alcohol substance abuse prevention policies?

While the author found few credible methodological or scientific studies of either a fire organizational, public entity, or private company's drug and alcohol substance abuse prevention

program, the best study in this regard was the Wickizer study of the State of Washington Workplace Prevention Program. Eight general categories of industries were studied using workers compensation claims and three industries, construction, manufacturing and service showed a statistically significant effect. The annual risk of any type of injury was reduced by about three cases per 100 person-years, while the risk of more serious time loss injury was reduced by about one injury per 100 person-years. The average cost per injury in 1996 dollars was \$4,851 for the construction industry, \$3,222 for the service industry, and \$2,228 for the manufacturing industry.

The study conducted by Swena in 1999 which studied the effect of the controlled substance testing that was required by the Federal Highway Administration in 1988 is another good study of available data. Swena used the data on crash rates per 100 million miles traveled which was taken from Traffic Safety Facts 1997 and he felt this was the only reliable database. The results were that the introduction of a program of random drug screening among commercial truck drivers was associated with a statistically significant decrease in fatal truck crashes for the 2 years following the application of the regulations (Swena, 1999, p. 6). However, Swena does point out there was no control group for this study, and cited that the database this information was taken from is subject to error. Swena also cautions that his analysis fails to establish causation, but felt that it was likely that the drug screening was responsible for a portion of the observed decrease. In closing, Swena questions if the costs and burdens of random screening can be justified given the data's apparent lack of continued benefit to public safety, and calls for further discussion, debate and study of the issue (Swena, 1999, p. 8-9). This conclusion and recommendation is consistent with the findings, conclusions and recommendations of

Schottenfeld in 1989, Rothstein in 1991, Zwerling in 1993, Jardine-Tweedie in 1998, and Wickizer in 2004.

Research Question 4

How does the VFD drug and alcohol abuse workplace prevention program compare with other public entity and private company workplaces in their approach and effectiveness?

The VFD substance abuse written program is similar in its approach to pre-employment screening, post-accident, reasonable suspicion, return to work, and voluntary testing. The COV policy lists the guidelines on who is covered, how employees seek assistance, and the types of training and education the City will provide. It discusses that substance use is prohibited and contains almost two pages of definitions. The COV policy closes with the responsibility assignments of Human Resources, Managers, Supervisors, and Employees. Most of the programs the author reviewed within the fire service, private industry, and public entities have these components, or variations of these components. The VFD program varies in that contains no annual or random screening components such as those mandated by the 1986 federal CDL requirements, or the 1991 Omnibus Transportation Employee Testing Act and is found in several other fire organization's programs. The COV or VFD program approach to date has been very low-key and is supervisor or problem driven because of the reasonable suspicion provision. The author was unable to find any internal data where the policy has ever been used organizationally at VFD. After the author interviewed the agency that tests all firefighter applicants for pre-employment physicals, it was discovered that they have never done any sort of pre-employment drug or alcohol screening. Then the author interviewed both the current and past human resource personnel directors of VFD, and a member of the COV Human Resource department. What the author learned was that in 1999, the decision was made not to do any pre-employment screening

because of the Washington State Court of Appeals decision of Robinson v. the City of Seattle except for COV Police applicants. It was felt that all other COV positions weren't considered public safety-sensitive. With regard to the post-accident section of the COV policy, in April of 2006, three Vancouver Firefighters were legally stopped at a traffic light at a major intersection when they were struck from behind at a significant rate of speed by a passenger vehicle. All five of the occupants of the passenger vehicle suffered injuries to the point that they were all transported to local hospitals. The fire department apparatus was significantly damaged to the point where it had to be towed from the scene; fortunately no injuries were sustained by fire department personnel. The accident was investigated by the appropriate law enforcement authorities, and the driver of the passenger vehicle was cited. Numerous chief officers of the VFD were on scene after the accident, but the driver of the apparatus was never tested per the post-accident portion of the COV employment policy #315.

Another significant difference in the COV substance abuse prevention policy is that it gives the COV the ability to test for all drugs, not just illicit substances. As the research indicated, most workplace programs only test for illicit substances, some for controlled substances and a few less for alcohol.

As is stated in the COV Policy, employee education and supervisor training are essential components of the policy and program; however, this training and education is currently inconsistent at best. The COV policy is simple in its design, especially when compared to those of other organizations, but it can be difficult to locate for those that are not computer literate in the organization.

There has never been any sort of evaluation or study with regard to the VFD's Substance Abuse Prevention Testing Policy direct effectiveness. This is consistent with programs of this type throughout the U.S. whether they are in the public or private sector.

Research Question 5

If there are recommended changes, how should they be implemented with regard to such concerns as bargaining agreements, costs, staffing, legal issues, sustainability, ongoing measurement of program effectiveness, and length of the evaluation cycle?

As was apparent throughout all of the research available to date, if the organization undertakes change in any area of this program it should be done in an inclusive manner as part of an overall comprehensive health program that has educational and awareness components. Since the program is part of the labor agreement, then the organization will have to bargain the impact of any changes. Drug and alcohol testing has the potential to affect the employee/employer relationship. The first step is one of evaluation. Management should consider modifying its drug testing policy to determine the objectives and then consider if drug testing will accomplish them. The economic costs of testing itself is not significant when viewed in comparison to the possible costs from the impacts and effectiveness of the program, the possible adverse impacts of intervention, and the possible legal implications. The organization has just come through a recent personnel arbitration issue that the direct dollar cost was close to \$10,000 in court and legal fees plus the organizational work-hours it took to come to its ultimate resolve. Recent staffing studies done by both the union local and by the COV show that the organization is understaffed and behind in comparison to agencies around the state that have similar demographics and response areas. The organization is short of line and administrative personnel. Programs that are currently undertaken by the department can be perceived to lack oversight and evaluation as to their

effectiveness and efficiency. Adding another program that requires such evaluation would mean additional staffing for program oversight, or additional funding for contracting these services out as part of the additional changes. The department would have to ask for additional funding from the Vancouver City Council and Fire District Board of Commissioners. These entities are already on record as not wanting to increase taxes or add funding to the organization for new programs, additional staffing, or programs outside of the department's priorities that were established in the VFD 2000 business plan.

If such a program is implemented, all physical and administrative costs associated with the program should be considered, and front loaded into the budget before making any changes. There should be an ongoing evaluation of the program and the evaluation cycle should be no longer than a two-year cycle which would be tied to and match the current budget cycle. With regard to program sustainability, the program would need to be a portion of the current overall annual health and wellness program, but testing should remain a separate component from the annual employee health screening.

VFD Internal Survey

The internal survey revealed that the respondents had similar opinions to what most Americans feel about drug and alcohol substance abuse programs. The research found that Americans believe in the necessity of workplace drug testing. Of the 97 responses, 77 believed that fire service professionals should have a workplace testing/screening program. 10 were unsure, and another 10 felt it was not necessary. Of the 97 surveys returned, 96 responded that all employees should be screened for substance abuse in the workplace with only three responses saying it should be suppression personnel only, if there is a program. The type of program that respondents felt is best is one that includes reasonable suspicion at 60 responses, with random

screening receiving 22 responses, and 9 for annual screening. The respondents show some confusion as to whether the organization or the city has a screening/testing program. Thirty-seven of the ninety-seven respondents felt the COV had no program, or were unsure if there was a program, with 60 respondents knowing there is such a program. When asked about the VFD, 43 respondents were either unsure or felt that VFD currently has no such screening/testing program, with 54 realizing that the department does have the ability to do workplace drug screening.

DISCUSSION

Workplace drug and alcohol prevention programs are a U.S. phenomena (Hartwell, 1996, p. 1). The lack of solid methodological data on these programs given their prevalence and the amount of funds that are spent in this regard is an issue that should be addressed (Rothstein, 1991, p. 92-93). Intuitively almost all people believe drugs and alcohol do not belong in the workplace. The research indicates this belief is held by the general populace and the prevalence of workplace drug testing and the author's internal department survey seemingly backs this conclusion. Data that show illicit drug and improper alcohol use in U.S. society is around a six percent rate, but doesn't detail what level of impairment these people are at in society, or more importantly in the workplace (Rothstein, 1991, p. 75; Washington Court of Appeals, 2000, p. 9). Drug testing only shows that the byproducts of a particular substance are in a person's bloodstream. This in no way determines a person's level of impairment as is possible with alcohol. Currently there is no research that the author was able to find where impairment levels or standards have been established or considered in any particular industry, and specifically that of the fire service.

The studies by Zwerling in 1993 and Wickizer in 2004 were the only two studies that the author could find that used sound methodological principles, and while they both showed a statistically significant effect of various programs they also both cautioned on how their data should be viewed and cautioned on how programs should be undertaken or studied in the future. Many of the studies that the author researched cautioned that the drug testing industry was a multi-billion dollar industry and capable of self-sustaining or self-serving behavior and had been found to use data that wasn't based on sound methodological grounds (Potter, 1990, p. 48; Rothstein, 1991, p. 87; Wickizer, 2004, p. 107; Zwerling, 1993, p. 160).

Given that the author has been able to find several instances in different fire organizations where there have been alcohol or drug-related accidents, terminations, or drug related issues, does that mean there is a widespread drug and alcohol abuse throughout the fire service industry? The author wasn't able to uncover any sound methodological research that either confirms or denies this in the fire service workplace. Events are isolated and usually singular in nature, and the fire service isn't prone to making these sorts of issues or problems public. Most organizations usually attempt to keep this information confidential in an effort to protect the organization and affected employees' good standing in the community's eyes.

Workplace drug and alcohol programs began in the early 1980's with the military and the federal government's war on drugs. Several high profile accidents that caused either a loss of human life, or had a large financial impact created a drive within the government and then in public and private industry to begin drug and alcohol testing and screening. At the time researchers felt that there was a large financial impact on the workplace through lost productivity

and worker injury, but there is little credible scientific evidence to back these claims (Potter, 1990, p. 12-25).

The public and private workplace sectors in the U.S. have gone on a program of drug and alcohol testing without really considering the impact of their actions. Research in this area has mainly focused on the accuracy of the testing, the legality of testing in the private sector, the constitutionality of government testing, and the impacts of the labor issues in the union sector (Rothstein, 1991, p. 67).

According to most of the scientific literature, impairment is seldom if ever discussed when it come to the effects of illicit or legal drugs in the workforce. Possible ways of measurement that could be researched should be taken from the essential functions of the job and be job or industry specific. Written, verbal or physical skills tests could possibly be designed that would indicate a need for substance screens. Alcohol testing does consider the impairment factor, but historically alcohol testing isn't as widely done as is screening for illicit drugs. It would seem by the research that the workplace testing programs in the U.S. have their priorities backwards (Rothstein, 1991, p. 92).

There are clear and logical reasons why jobs that have public safety functions should have comprehensive workplace substance abuse programs. While there is little hard science to back the effectiveness of current programs, the documented incidents were costly in terms of human life, environmental or property damage, and the resulting public relations issues. These are clear indicators that an effective program is needed (Zwerling, 1993, p. 161).

Most workplace programs in the U.S were put into place without being thoughtfully conceived nor were they given the consideration of the need, consequences, and priorities of testing (Rothstein, 1991, p. 73). Research has shown that workplace drug and alcohol programs may

suffer from one or all of the following six errors: failure to understand the drug abuse problem, failure to consider the limitations of drug testing technology, failure to consider the social consequences of workplace testing, failure to consider other drug or alcohol problem, the failure to coordinate the technology with other methods of dealing with the problem, the failure to address reasons for the adoption of workplace testing that are not related to the appropriateness or efficacy of the current technology, and the failure to assess and reassess the effectiveness of the workplace program (Rothstein, 1991, p. 73-92). Any comprehensive substance abuse program should be crafted taking these factors into account. The VFD program seems to suffer from a lack of adequate employee awareness and supervisor/employee training.

Clearly the scientific community needs to do an effective, long-term methodological and scientific study of workplace drug and alcohol programs. Safety-sensitive industries or professions should have priority and this research should be federally funded since it is the federal government is legislation and policies that mandate or control much of the regulation of these industries. The federal government spends millions of tax dollars annually in testing many of their employees, and the drug testing industry is over a six-billion dollar industry in the U.S. alone (Potter, 1990, p. 48; Rothstein, 1991, p. 87; Wickizer, 2004, p. 107; Zwerling, 1993, p. 160).

The COV Law Department is looking at rewriting the current substance abuse policy. Considering the research that the author has found, hopefully the program will have ongoing employee educational, supervisory training, and employee assistance components, and will be a collaborative effort between labor and management, because improper program construction or implementation has the tendency to harm the employer/employee relationship (Rothstein, 1991, p. 91-92).

RECOMMENDATIONS

The VFD currently has a workplace substance abuse program. Unfortunately as the research shows, it is not clearly understood or applied as it is currently written. The organization needs to begin an ongoing program of employee education and supervisor training in this regard before beginning a different program or simply doing nothing.

The department is subject to federal requirements given the recently acquired federal funding we have received. Given the level to which the organization has come to depend on these dollars to operate efficiently and effectively, it should seek out further federal or other financial assistance in finding ways to meet these mandated testing or program costs.

The COV and the VFD should begin a study to determine the guidelines for ensuring that any changes to the existing policy have the following components:

- The substance abuse program must be part of a comprehensive approach to preventing and treating problems. Testing by itself is not an effective tool.
- The program should be developed in cooperation with the employer and the employees and the realization that substance abuse is a medical issue. In the case of the fire department, line personnel as well as the supervisors are either as likely or more likely to recognize that a fellow worker is impaired.
- Alcohol and legally prescribed medications must be included in the discussions about program testing, and safety and productivity issues should be a factor.
- Impairment should be the focus of the program, and tests shouldn't be designed primarily to detect and punish illicit drug use in and of itself.
- The program should be centered on positions that are truly safety-centered or safety-sensitive. Reasonable suspicion testing should be sufficient for low-risk or non-public

safety-sensitive positions. Random screens should be appropriate for those in the defined high-risk, safety-sensitive positions as long as these tests are conducted using the best scientific methodology, and are in conjunction with a comprehensive overall health program.

- Confidentiality is essential in these processes, and an independent physician would be the person to notify the employer of the individual's inability to function on the job due to level of impairment. Impairment standards must be tied to the essential functions of the industry or job, be agreed upon and understood by the employer and employees, and constructed from sound methodological or scientific procedures.
- Testing costs are only a portion of the financial impact of these types of programs. Administrative costs, training costs, and employee impacts must be considered before beginning a program of this magnitude. Grants or other sources of funding should be established before undertaking any program changes.

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Appendix A

315. SUBSTANCE ABUSE PREVENTION

SCOPE: This policy applies to all employees of the City of Vancouver, unless otherwise addressed by a current collective bargaining agreement.

POLICY: The City of Vancouver believes that we have a responsibility to our employees and to the general public to ensure safe operating and working conditions. To satisfy these responsibilities, we must establish a work environment where employees are free from the effects of drugs, alcohol, or other impairing substances. In an effort to promote a healthy, drug free workplace, this policy also allows and encourages employees who wish to overcome a drug and/or alcohol dependency to seek the professional assistance that they may require. (Please see Employee Assistance guideline #2 in the Procedure and Guidelines section of this policy.)

GUIDELINES:

1. Which City employees are covered under this policy? All City employees are covered under this policy. Employees covered under this policy may be tested for drugs or alcohol on occasions as set forth below. For the purpose of this policy, "on-duty" is defined as any time on the job. Additionally, time spent in association with drug testing specimen collection and/or alcohol testing is considered "on-duty" time.

2. Can an employee seek assistance on his/her own for a drug/alcohol problem through the Employee Assistance Program? The City will support treatment efforts for regular/probationary/introductory employees with drug/alcohol problems who, prior to official discovery, voluntarily seek assistance. When an employee under this policy voluntarily seeks assistance, for the first time, he/she will immediately be granted a leave of absence in accordance with the applicable employment policies.

3. What type of training and education will the City provide? Employee education and supervisor training are essential parts of this policy and program. All existing and new employees will receive information on the impact of drug and alcohol use and will receive information on resources for assistance. Supervisors will receive the same information as well as training in the recognition and detection of signs and symptoms of alcohol and drug misuse. Supervisors will not be permitted to make reasonable suspicion testing referrals unless they have completed such training. In addition, the City will make this same training available to union representatives in an effort to keep them up to date and educated in this area.

4. What drug/alcohol use is prohibited by the City?

Employees are prohibited from the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance on City property, or anytime during an employee's work shift. Employees are prohibited from reporting for work after using illegal drugs or controlled substances at a time, or in such a manner that may impair work performance. This prohibition includes a verified positive drug test result. Employees are prohibited from reporting for work after consuming alcohol at a time, or in such a manner, that may impair work performance (prohibited alcohol conduct). Refusal by an employee to submit a urine or breath specimen when requested to do so under the guidelines of this policy will have the same consequences as a positive test result, and will result in immediate removal from duty. Violations of this policy and/or its prohibitions may lead to corrective action up to and including termination of employment, providing just cause for such action exists. Official discovery of prior voluntary treatment or professional assistance shall not, by itself, constitute just cause for corrective action.

5. Definitions for this Policy:

Alcohol means ethyl alcohol or ethanol. Breath alcohol tests on covered employees must show levels below 0.04 or the employee will be in violation of this policy, however, an employee will not be permitted to return to work if the employee's Blood Alcohol Content (BAC) is greater than 0.02.

Alcohol use means the consumption of any beverage, mixture or preparation, including any medication, containing alcohol.

Breath Alcohol Testing Site means a location which affords visual and aural privacy for the performance of breath alcohol testing. No unauthorized person shall be permitted access to the breath alcohol testing site when the evidential breath testing device is unsecured or at any time when testing is being conducted. In unusual circumstances, e.g. after an accident when a test must be conducted outdoors, the breath alcohol technician must provide visual and aural privacy to the greatest extent practicable.

City means the City of Vancouver, Washington.

Controlled substance means a chemical or its immediate precursor classified in Schedules I through V under the Federal Controlled Substances Act, 21 USC 811 to 812, as modified under RCW 46.25 (copies are available to employees from the City's Human Resources department). "Controlled substances" include but are not limited to narcotics, depressants, stimulants, hallucinogens, and cannabis.

Drug means a substance:

- Recognized as a drug in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official Formulary, or in any supplement to any of them;
- Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;
- Other than food or beverage, intended to affect the structure or any function of the body of humans or animals;
- Intended for use as a component of anything listed above in A, B, or C of this definition.

Employee means an individual who personally renders services to the City of Vancouver temporarily or otherwise, and who is not employed by an independent contractor to render those services pursuant to a contract.

Illegal Drug means drugs which are not legally obtainable or drugs which have not been obtained legally. It also means drugs which are legally obtained but are knowingly used in a purpose or manner other than prescribed or intended.

Reasonable suspicion means that a trained manager or supervisor observes behavior, appearance, speech or body odors that are characteristic of alcohol or drug misuse. These observations must be specific, articulable and contemporaneous.

Refuse to submit (to a drug/alcohol test) means that a covered employee fails to provide a urine sample or to submit to a breath alcohol test as required by this policy, without a valid medical explanation, after he or she has received notice of the requirement to be tested in accordance with the provisions of this policy, or engages in conduct that clearly obstructs the testing process.

Substance abuse means addiction to or the dependency upon alcohol or a controlled substance, or the use of alcohol or a controlled substance in a manner that results in interference with an employee's performance of work-related tasks.

Work shift means any time during which an employee is engaged in work on behalf of the City, including but not limited to routine 8-hour or 24-hour shifts, rotating shifts, part-time shifts, breaks, and time spent traveling from one work site to another.

6. What types of drug and alcohol testing are required?

The following are occasions for drug and alcohol testing under this policy:

Post-offer of employment: Alcohol testing is not conducted. Drug testing is conducted after offer to hire applicants whose job duties implicate public safety; hire is contingent on negative results. Applicants for positions that are covered under this policy will be notified of the testing requirements during the application process. If an outside applicant's drug test is verified as positive, he/she will be prohibited from hire. Applicants may be considered again for employment with the City after six (6) months.

Post-accident: Post-accident testing will be conducted when an employee, driving a vehicle/equipment during the course of his or her shift, has an accident which results in any of the following:

- an injury or fatality; or
- the employee receives a citation for a moving traffic violation.

Reasonable suspicion: Conducted when a trained supervisor or manager observes behavior or appearance which is characteristic of alcohol or drug misuse.

Voluntary Testing: An employee may voluntarily submit to drug or alcohol testing upon agreement of the City. The City will not suggest such voluntary testing or coerce employees into such testing.

Return to work and follow-up: Conducted when an employee is returning to work after having violated this policy by testing positive for drugs and/or demonstrating prohibited alcohol conduct.

7. What discipline and rehabilitation procedures does the City follow?

An employee whose alcohol or drug test yields a verified positive result for any concentration of a controlled substance that is prohibited by law and/or under this policy will be required to submit to an evaluation for substance abuse at a facility designated by the City or the City's employee assistance program (EAP). An employee who violates any element of this policy may be subject to discipline in accordance with applicable City policies, procedures, and collective bargaining agreements provided that an employee who violates any prohibition of this policy will not be disciplined for the first offense if he/she successfully completes a treatment program and follow-up testing upon return to work. An employee may be subject to discipline for adulterating or falsifying, or attempting to adulterate or falsify, a test sample, or for falsifying or attempting to falsify a test result; and/or for refusing to undergo treatment or rehabilitation as may be recommended by a professional in the field of substance abuse. All employees are required to comply with other City or departmental policies and may be subject to discipline for violation of such policies. No employee shall be disciplined under this policy except for just cause. Any discipline imposed on an employee covered by a collective bargaining agreement may be subject to the collective bargaining agreement grievance procedure or Civil Service Appeal, if applicable. The City offers an EAP through a private firm. An employee may seek help directly from the private firm for evaluation of abuse of, addiction to, or dependency upon alcohol or a controlled substance. The private firm may refer the employee to another firm for treatment or rehabilitation. An employee's use of the EAP and referral to another firm for treatment and rehabilitation shall be confidential and shall not be disclosed to the City, unless the SAP determines that the employee is unable to safely perform his/her employment duties. An employee who undergoes treatment or rehabilitation under paragraph (d) of this section may use any appropriate leave benefits available to attend treatment or rehabilitation sessions. An employee who participates in a treatment or rehabilitation program will not be penalized for participation. However, participation in a program will not excuse the employee from compliance with this policy in its entirety or, from fully and acceptably performing all of his/her employment duties. Payment for outpatient, inpatient, or any other treatment programs will be covered subject to the terms of the employee's health insurance benefit and/or EAP in effect at the time. An employee who is required to participate in a treatment or rehabilitation program may, upon successful completion of such program, be randomly re-tested for alcohol and/or controlled substance abuse for a period of up to sixty (60) months upon the recommendation of the SAP, following completion of the program. Positive test results during this period may be grounds for discipline up to and including termination. An employee who successfully completes a treatment or rehabilitation program shall be returned to his/her regular duty assignment. Thirty-six (36) months following the completion of a treatment program, if the employee has had no further positive testing or other alcohol or substance abuse related incidents, the employee's personnel file shall be purged of any reference to his/her drug and/or alcohol problem.

RESPONSIBILITY ASSIGNMENTS

Human Resources

- Manage the alcohol and controlled substance testing program.
- Ensure all testing and collection procedures are in compliance with federal regulations.

- Maintain all documentation regarding any positive test results in a locked file cabinet in Human Resources.
- Provide sole source communication on drug and/or alcohol issues and provide information on employee assistance program and available assistance resources.
- Provide mandatory training for managers and supervisors and offer the same training to union representatives.
- Take every reasonable measure to safeguard the privacy of an employee in connection with this policy. Maintain the confidentiality of an employee who voluntarily requests assistance in dealing with chemical dependency.

Managers and Supervisors

- Assist employees with chemical dependency problems who are seeking help and support recovery efforts.
- Attend training programs on detecting substance abuse and the administration of the City of Vancouver Substance Abuse Policy.
- Adhere strictly, at all management levels, to the policies and procedures established for drug and alcohol testing.
- Require an employee to submit to drug testing when there is reasonable suspicion to believe the employee has used alcohol and/or a controlled substance in a way which violates the law and/or this policy.
- Work with Human Resources and City Attorney's Office to understand the employee's rights and the assistance resources available if he/she is identified as being chemically dependent.
- Take every reasonable measure to safeguard the privacy of an employee in connection with this policy. Maintain the confidentiality of an employee who voluntarily requests assistance in dealing with chemical dependency.

Employees

- Know that employee consumption of alcohol and/or controlled substances (other than medications prescribed by a physician) on City premises is prohibited at all times; and is prohibited off City premises during normal break periods if the employee is scheduled to return to work.
- An employee shall notify his/her manager or supervisor and Human Resources within five (5) calendar days after a conviction for a violation of any criminal drug or alcohol statute if (a) the violation occurred in the employee's workplace or during the employee's work shift, (b) the conviction results or may result in the loss of driving privileges for any period of time, (c) the conviction otherwise adversely affects the employee's ability to perform employment duties, or (d) if the conviction may result in time lost from work.
- Promptly comply with an order to submit to a urine and/or breath test for alcohol and/or controlled substances pursuant to this policy.
- Support the City's commitment to maintain a drug-free work place by reporting any violation of the Substance Abuse Policy to his/her supervisor, manager, or to Human Resources.

Appendix B

Town of Derry - Administrative Regulation

Effective Date: November 20, 2000 Regulation No: 18

Revision Date: N/A Supersedes: N/A

Approved By: Carol M. Granfield

SUBJECT: DERRY FIRE DEPARTMENT; DRUG AND ALCOHOL TESTING PROGRAM**I. PURPOSE:**

This Administrative Regulation is to delineate the policy under which the Town of Derry will meet the standard of the Omnibus Transportation Employee Testing Act of 1991 (PL-) and meets 49 CFR-Federal Motor Vehicle Safety by including all staff and emergency service personnel of the Derry Fire Department, prohibiting the use of certain controlled drugs and alcohol by employees who, by position or function, are employed by the Derry Fire Department. Within this policy are the procedures for testing, record keeping and enforcement that will be used by the Town of Derry to monitor and ensure compliance.

II. POLICY STATEMENT:

The Town of Derry has a strong commitment to the health, safety and welfare of its employees, their families and the public at large. Therefore, the Town of Derry seeks to hire and employ workers, who are free of illegal drugs and alcohol. The Town of Derry Fire Department will conduct; pre-employment drug testing, drug and alcohol testing upon reasonable suspicion, drug and alcohol testing after any cited vehicle accident. All members of the Derry Fire Department will participate in random testing for drugs and alcohol.

III. DEFINITIONS:

- A. Alcohol - The intoxicating agent beverage alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl and isopropyl alcohol.
- B. Alcohol Concentration - The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test. For alcohol screening tests, certain approved non-evidential test may be used.
- C. Alcohol and Drug Test - A generally accepted and proven test methodology or methodologies as recommended by the Rules and Regulations under 49 CFR Part 382 Substances and Alcohol Use and Testing. This test method determines whether an individual has ingested or otherwise used the substance in question within a period of time before the test.
- D. Alcohol Use - The consumption of any beverage, mixture or preparation, including any medication containing alcohol.
- E. Applicant - A person who has applied for a position with the Town of Derry including past employees eligible for rehire and present employees voluntarily seeking another Town position.

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F. Appointing Authority - The Derry Town Administrator with the legal authority granted by law, ordinance or policy to appoint, discipline, demote or dismiss an employee.

G. Breath Alcohol Technician (BAT) - An individual who instructs and assists individuals in the alcohol testing process and operates a evidential breath testing (EBT) device.

H. Confirmation Test - In alcohol testing, a second test, following a screening test with a result of 0.02 or greater, that provide quantitative data of alcohol concentrations. In controlled substance testing, a second analytical procedure to identify the presence of a specific drug or metabolite that is independent from that of the screening test in order to ensure reliability and accuracy.

I. Controlled Substance - Unless otherwise provided, this term refers to:

3.9.1 Marijuana

3.9.2 Cocaine

3.9.3 Opiates

3.9.4 Phencyclidine (PCP)

3.9.5 Amphetamines, including methamphetamines

J. Covered Employee - Town of Derry Fire Department personnel.

K. Department Authority - The Fire Chief will have the authority to administer the policies of the Town of Derry under the direction of the Town Administrator.

L. Driver – Fire Department personnel who operates apparatus, ambulances, and Town vehicles.

M. Employee Assistance Program (EAP) - A confidential counseling program available to all Derry employees.

N. Evidential Breath Testing Device (EBT) - An EBT approved by NIDA labs “Conforming Products List of Evidential Breath Measurement Devices” (CPL), and identified in the CPL as conforming with the model specifications.

O. Medical Review Officer (MRO) - A licensed physician (medical doctor or doctor of Osteopathy) responsible for receiving laboratory results generated by any employer’s controlled substances testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual’s confirmed positive test results together with his or her medical history and any other relevant bio-medical information.

P. Positive Test -Alcohol and Drug test results that meet or exceed the standards outlined under 49 CFR.

Q. Random Testing - A scientific method used to select employees for testing at random. It involves a minimum of 50% for drugs and 10% (revised 1/21/00) for alcohol of Derry Fire Department employees selected randomly on a monthly basis. Percentage requirements will be based on a yearly total of samples. The

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minimum percent to be tested may decrease in subsequent years based upon the number of confirmed positive test results if authorized by the Federal DOT.

R. Reasonable Suspicion - A belief by a supervisor or a town official based on specific facts, contemporaneous and articulable observations, that an employee is under the influence of drugs or alcohol to the extent that job performance may be impaired or the ability to perform the job safely may be reduced.

Circumstances which constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

- 1.) A pattern of abnormal or erratic behavior
- 2.) Information provided by a reliable and credible source, and personally observed by the supervisor
- 3.) Direct observation of drug or alcohol use
- 4.) Presence of the physical symptoms of drug or alcohol (i.e. Glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes)

S. Safety Sensitive Function - An employee is considered at all times in the capacity of a safety sensitive position.

T. Screening Test - In alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or other specimen. In controlled substances testing, an immunoassay screen to eliminate "negative" urine specimens from further analysis.

U. Substance Abuse - Refers to patterns of controlled substance and/or alcohol abuse that results in health consequence and/or impairment in social, psychological and occupational functioning.

V. Substance Abuse Professional (SAP) - A Licensed physician (medical doctor or doctor of Osteopathy) or a licensed or certified physiologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge or and clinical experience in the diagnosis and treatment of alcohol controlled substances - related disorders.

W. Screening Test Technician (STT) - An individual who instructs and assists individuals in the alcohol screening testing process and operates a non-evidential alcohol screening device.

IV. RESPONSIBILITIES:

A. The Town of Derry Human Resources Manager is responsible for coordinating the Town effort to comply with Employee Testing Act of 1991 and 49 CFR - Federal Motor Vehicle Safety as it relates to Commercial Drivers; while exempted

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by 49 CFR 382.103 and NH-RSA 259:12-e II (a), this also includes the testing of all Derry Fire Department staff and emergency personnel.

- 1.) Authorizing the alcohol and controlled substance testing of all Derry Fire Department personnel
- 2.) Scheduling Derry Fire Department for random alcohol and controlled substance testing
- 3.) Receiving the results of alcohol and controlled substance test of Derry Fire Department personnel
- 4.) Notify Derry Fire Department Chief of those employees who fail to comply with provisions outlined in these procedures
- 5.) Ensuring that the alcohol and controlled substance test, notice, form and results are kept confidential

B. Supervisors, responsible for the safety and performance of employees assigned to them, will:

- 1.) Observe and monitor the physical characteristics, conduct, behavior and performance of assigned employees for indications they may be under the influence of drugs or alcohol. When personal observation provides "Reasonable Suspicion", the employee will be immediately prohibited or removed from safety sensitive functions and directed to submit to appropriate testing.
- 2.) Fully document in writing the circumstances, conditions and observances that result in the removal of an employee from safety sensitive functions.

C. All Derry Fire Department personnel shall comply with the following:

- 1.) Submit to and cooperate with mandated drug and alcohol testing as delineated
- 2.) Not report for duty or remain on duty requiring the performance of safety sensitive functions while under the influence of alcohol. An alcohol concentration of 0.04 or greater will preclude assignment to duties
- 3.) Not use alcohol while performing safety sensitive functions
- 4.) Not consume alcohol after an accident that requires alcohol testing for eight hours or until tested, whichever occurs first
- 5.) Properly participate and successfully complete any rehabilitation program prescribed by a substance abuse professional (SAP)

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D. The Town of Derry is responsible to:

- 1.) Pay all costs for mandatory testing, training, record keeping and initial treatment. The Town may contract for testing and other services related to this policy and will ensure that procedures used for testing meet and exceed the requirements of reference (A). Part 40. The Town will closely monitor the vendor who provides testing services to protect the employees, ensure the integrity of the testing processes, and safeguard the validity and attributability of the test results.
- 2.) Provide annual training for all covered employees on the content of the policy and governing directive. Additional training will be provided when changes in the policy or those directives occur. (Material to be provided to employees is outlined in 49 CFR 382.601).
- 3.) The Town will pay all costs for testing associated with any employees "first" positive testing results, this includes subsequent testing required and all treatment associated with a first positive test result. This is for the "first" offense only. If any employee fails required testing after the first positive result he or she will pay all costs associated with the second test.

V. TESTING:

A. Requirements for controlled substance testing:

- 1.) Random Testing - Periodic, unannounced, scientifically random selection of covered employees, identified by the last digit of their social security number, will determine participants to meet the annual requirement for random controlled substance testing. The percentage of covered employees tested will be at least 50% or the minimum percentage applicable for that calendar year.
- 2.) Post Accident Testing - Any employee performing safety sensitive functions in a Town owned vehicle involved in an accident will be tested as soon as practicable after the accident: within 8 hours for alcohol, and 32 hours for controlled substances, if the accident involved loss of human life, personal injury; or a citation for moving violation. Employees must not consume alcohol or drugs after an accident that requires testing for eight hours or until tested, whichever occurs first.
- 3.) Reasonable Suspicion Testing - Testing will be required whenever an appropriately trained supervisor or management official observes specific, contemporaneous articulable conditions of appearance, behavior, speech or body odors and including chronic or withdrawal symptoms indicating the use of a controlled substance by a covered employee.
- 4.) Pre-employment Testing - Prior to any final offer of employment, any applicant who will perform safety sensitive functions must be tested for controlled substances with a negative result. The offer will be conditional upon test results.

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- a.) The applicant shall be given a copy of this policy and a consent form to complete, sign and take to the test facility, and will be informed of the test appointment.
- b.) The MRO will notify the applicant of the test results, and if positive, will give the applicant an opportunity to discuss same; prior to release of the information to the Town of Derry.
- c.) After the Human Resources Manager has received the test results from the MRO or testing facility, eligibility for employment will be determined. The test results shall be kept confidential.
- 5.) Return to Duty Testing - A controlled substance test with verified negative results must be completed for any employee who has previously tested positive before the employee may return to duty requiring the performance of safety sensitive functions.
- 6.) Screening Testing - Any initial test for the presence of controlled substance. Any positive test will result in confirmation testing.
- 7.) Confirmation Testing - A second independent analytic procedure to determine the specific drug or metabolite involved.
- 8.) Follow-up Testing - Following return to duty after removal for controlled substance use, an employee who has completed a prescribed rehabilitation program, will be tested at least 6 times, not to exceed twelve times in the first twelve months after return. Further follow-up testing may be conducted for up to 60 months. Costs for all follow-up testing will be borne by the Town for the "first" positive test result only. If any employee tests positive after the first positive test he/she will pay for all costs associated with the second positive test.

B. Requirements for alcohol testing:

- 1.) Random Testing - Periodic, unannounced, scientifically random selection of covered employees, identified by the last digit of their social security number, will determine participants to meet the annual requirement for random alcohol testing. The percentage of covered employees tested will be at least 10% or the minimum percentage applicable for that calendar year. Testing will be performed: while the employee is performing safety sensitive functions or just prior to performing safety sensitive functions.
- 2.) Post Accident Testing - Any employee performing safety sensitive functions in a Town vehicle involved in an accident will be tested as soon as practicable or possible but in no case more than 8 hours of that accident, if: the accident involved loss of human life, personal injury; or a citation for moving violation
- 3.) Reasonable Suspicion Testing - Testing will be required within two hours, whenever an appropriately trained supervisor or management official observes specific, contemporaneous articulable conditions of appearance, behavior, speech or body odors indicating prohibited use of alcohol by a covered employee. Testing may be directed just before, while, or just after the employee performs

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safety sensitive functions and based on observations during, preceding or just after the period the employee must be in compliance with this policy.

4.) Return to Duty Testing - An employee who has engaged in conduct prohibited by this policy, involving alcohol, must have an alcohol test with result indicating alcohol concentration 0.00 before being assigned to safety sensitive functions.

5.) Follow-up Testing - Following return to duty after removal for alcohol misuse, an employee who has completed a prescribed rehabilitation program, will be tested at least 6 times, not to exceed twelve, unannounced in the first twelve months after return. Further follow-up testing may be conducted for up to 60 months.

6.) Screening Testing - Any initial test for alcohol. Any positive test, alcohol greater than 0.00, will result in confirmation on testing.

7.) Confirmation Testing - Any test resulting in indication of alcohol concentration greater than 0.02 will be followed as soon as practicable by a second test to confirm the quantitative data of alcohol concentration.

VI. NOTICE AND CONSENT:

A. Before a drug and alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting the release of test results to the Town's Human Resource Manager, who will forward the results to the Fire Chief, as required.

B. All recruitment announcements for any Fire Department position will disclose that a drug-screening test will be required for the applicant.

VII. TESTING TECHNIQUES:

A. Drug Testing:

1.) Drug testing is accomplished by analyzing the employee's urine specimen (urinalysis). Specimens will be collected at a location selected by the Town of Derry. The testing facility must assure that specimen collection be done in a dignified, professional and confidential manner. Once the employee provides a urine specimen, it is sealed and labeled by a certified/authorized agent of the testing facility. A chain of custody document is completed in the presence of the employee, and the specimen is shipped to a SEMSA certified laboratory.

2.) All urinalysis procedures are required to include split specimen techniques. Each urine sample is sub divided into two containers and labeled as primary and split specimens. Both specimens are forwarded to the laboratory. Only the primary specimen is used in the urinalysis. In the event of a confirmed positive test result, the split specimen may be used for a second confirmation test if requested by the employee. If the second confirmation test is positive the employee will be charged for this test.

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- 3.) During testing, an initial screening test is performed. If the test is positive for one or more drugs, a confirmation test will be performed for each individual drug using gas chromatography/mass spectrometry (GC/MS) analysis. This test ensures that over the counter medications are not reported as positive results.
- 4.) If the analysis of the primary specimen results in a confirmed positive test, the employee, may within 72 hours request that the split specimen also be tested at the SEMSA laboratory of his/her choice. The second test is at the employee's expense unless the test should be negative, in which case the Town would reimburse the employee or pay directly for the second test.
- 5.) All test results are reviewed by a physician Medical Review Officer (MRO) prior to results being reported to the Town of Derry. In the event of a positive test result, the MRO will first contact the employee and conduct an interview to determine if there are any alternative legitimate reasons for the positive result (such as over the counter or prescription medications). If the MRO determines there is a legitimate medical explanation for presence of drugs, the results will be reported as negative.

B. Alcohol Testing:

- 1.) Alcohol testing will be conducted using an evidential breath testing (EBT) device. A certified Breath Alcohol Technician (BAT), trained in the use of the EBT and alcohol testing procedures, must perform the breath test. Under certain circumstances, post accident tests conducted by law enforcement personnel will be acceptable. In the event of a confirmed positive test result for alcohol, the employee, at their option and cost, may request an immediate blood test to be evaluated at a SEMSA/NIDA certified laboratory of their choice.

VIII. CONSEQUENCES:

If an employee or applicant violates this policy, the Town of Derry may consider, but is not limited to, the following:

A. Job applicants will be denied employment with the Town if a positive test result has been confirmed or the applicant does not request a confirmation test. Applicants shall be informed in writing if they are rejected on the basis of a confirmed positive test result.

B. Refusal to Submit - Any employee who has been notified of the requirement for testing, who: fails to provide adequate breath for alcohol testing, fails to provide adequate urine for controlled substance testing or engages in conduct that clearly obstructs the testing process will be considered to have refused to submit to testing.

- 1.) Refusal to submit will result in termination.
- 2.) A job applicant who refused to consent to a drug and alcohol screening test will be denied employment with the Town of Derry.

C. Rehabilitation - When the evaluation of a substance abuse professional (SAP) determines that a rehabilitation program, if any, is required by an employee to resolve problems associated with alcohol misuse or controlled substance abuse, the employee will properly follow the prescribed program as a condition of continued employment with the Town. If any employee fails to follow the prescribed program established by the SAP he/she will be terminated.

IX. CONFIDENTIALITY OF TEST RESULTS:

A. All information from an employee or applicant drug and alcohol test is strictly confidential. Disclosure of test results to any other person; agency or organization is prohibited unless written authorization is obtained from the employee or applicant. The results of a positive drug test shall not be released by the MRO to the Town until confirmed. The records of unconfirmed positive test results and negative test results will be maintained by the MRO, and reported to the Town where they will be kept on file.

B. Exceptions to these confidentiality provisions are limited to a decision maker in arbitration, litigation or administrative proceedings arising out of a positive drug or alcohol test or other violation of these rules, or as required by law.

C. Any unauthorized or improper disclosure of confidential information associated with the application of this policy will result in termination.

X. MISCELLANEOUS:

A. The Town of Derry will provide employees being tested with transportation to and from the testing site.

B. Upon employee request, a union representative will be notified of all employee testing of reasonable suspicion and post accident.

C. Designated union representatives (i.e. Stewards) will be included in all supplementary and supervisory training held in relation to the performance of this policy.

D. Specimens may only be tested for the covered drugs and the specimens may not be used to conduct any other analysis or test.

E. The person who makes the determination of reasonable suspicion shall not conduct the test.

F. If employees test positive for drug or alcohol consumption, as herein defined, the Town will pay for all costs of the initial testing, and all treatment associated with first positive test results. If the employee tests positive as herein defined, a second time he will pay for all costs associated with compliance with this policy and the Employee Testing Act of 1991 and 49 CFR-Federal Motor Vehicle Safety.

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XI. DISCIPLINE:

A. Alcohol

1.) First positive test results: 0.04 or greater – Suspension of thirty days without pay. Completion of treatment plan as determined by SAP. Failure to participate shall result in termination.

2.) Second positive test results: 0.04 or greater – Immediate termination.

B. Controlled Substance

1.) First positive test results for controlled substance: Suspension of thirty days without pay. Completion of treatment plan as determined by SAP. Failure to participate shall result in immediate termination. Reinstatement shall be conditioned upon negative result for controlled substance upon retesting; failure to receive a favorable result upon retesting shall result in termination. Second offense shall result in termination.

C. Any infraction with loss of license shall be in accordance with the Town License Suspension/Revocation Administrative Regulation No. 11.

D. Any employee who willfully refuses to comply with the aforementioned testing and EAP requirements shall be terminated immediately. See section VIII, paragraph; A, B and C.

Carol M. Granfield
Town Administrator

ACKNOWLEDGMENT AND CERTIFICATION

I hereby acknowledge and certify that I have received a copy of the Drug and Alcohol Testing Policy.

EMPLOYEE NAME _____

EMPLOYEE SIGNATURE _____

WITNESS SIGNATURE _____

DATE _____

Original acknowledgment and certification to be kept on file with employer. Copy of the acknowledgment and certification to employee.

Appendix C

COLLECTIVE BARGAINING CONTRACT

Between the

CITY OF CASPER

and the

CASPER FIRE DEPARTMENT

and

FIRE FIGHTERS LOCAL UNION 904

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AFL-CIO

2004 – 2005 & 2005 - 2006

Section 9 - City of Casper - Fire Department Drug and Alcohol Testing Policy.

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SECTION I: CONSEQUENCE OF VIOLATION

Termination of employment will be recommended for any Casper Fire Department (CFD) employee who tests positive for alcohol or a controlled substance pursuant to this policy. Any supervisor, who violates responsibilities identified in this policy, shall be subject to disciplinary action in accordance with the City of Casper Personnel Rules and Regulations Manual.

SECTION II: SELF DISCLOSURE

If a CFD employee self-discloses a drug or alcohol problem to the Fire Chief and/or the Human Resources Director before being suspected of being under the influence of drugs or alcohol, or before being selected for a random test for drugs/alcohol pursuant to this policy, no disciplinary action will be taken against the employee for the act of self disclosure. Such an employee will be advised that he or she may use accrued benefits according to the City FMLA leave policy to seek help from a Substance Abuse Professional.

SECTION III: APPLICABILITY

This policy applies to all City employees assigned to the CFD with the exception of the secretarial staff who are covered under the City of Casper Personnel Rules and Regulations.

This policy shall be applied consistent with Article V, Miscellaneous, Section 9 of the Collective Bargaining Agreement between CFD employees Local 904, IAFF, and the City.

SECTION IV: DEFINITIONS

CONTROLLED SUBSTANCE – means a controlled substance in Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. § 812) and as further defined in Regulation 21 CFR 1308.11—1308.15.

ILLEGAL DRUGS – means any drug or controlled substance, the possession or use of which is unlawful, pursuant to any federal, state, or local laws or regulations.

UNDER THE INFLUENCE – The use or misuse of any drug or controlled substance, or alcohol that results in a positive drug/alcohol test as defined in the Section V.C.

SECTION V: PROCEDURES

The following procedures apply to all CFD employees while on duty.

A. Prohibited Activity – Drugs

1. No employee shall illegally possess any controlled substance.
2. No employee shall ingest or inhale any illegal, controlled, or dangerous substance, unless as prescribed by a licensed medical practitioner.
 - a. Employees shall notify their immediate supervisor of the employee's use of prescription medicine that may impair job performance. It is the employee's responsibility to consult with his or her doctor regarding the nature of his or her duties and the interaction with the prescribed drug. The employee shall advise the supervisor of the known side effects of the medication and the prescribed period of use. The prescribed medicine shall be taken according to the physician's instructions. The employee is not required to disclose either the condition that the medication is prescribed for or the name of the medication.
 - b. Employees shall notify their supervisor immediately if they unintentionally, while on duty, ingest, inhale, etc. a controlled substance.
 - c. Supervisors shall document this information through the use of an internal memorandum and maintain this memorandum in a secure location as described in Section VIII of this policy, and not in the employee's personnel file.
3. No employee shall ingest or inhale any prescribed medication in amounts beyond the recommended dosage, unless authorized by the physician.

B. Prohibited Activity – Alcohol

1. All employees are prohibited from possessing alcohol while on duty with the exception of medications containing alcohol. This section does not apply to employees handling alcohol-containing products in the performance of their duties.
2. No CFD employee shall report for duty or remain on duty while having greater than 0.02% blood-alcohol concentration.

C. Positive Tests

1. A positive alcohol test is a test where the result is above 0.02% blood alcohol content.
2. Concentrations of an illegal drug at or above the standards set forth in 49 CFR Part 40 in the field of illegal drug testing shall be considered as a positive test, both for initial screening and confirmation. Confirmation shall be by test on a urine specimen that tested positive, on the initial screen, using a technologically different method from the initial screening method, such as gas chromatography/mass spectrometry. "Generally accepted standards" means the standards set forth in 49 CFR Part 40 and used by a certified testing laboratory used for any drug/alcohol test described in this policy.

D. The Rapid Eye Check™ includes the following five short tests of an employee to determine if there is reasonable cause to believe an individual is under the influence of drugs/alcohol:

- Check 1 – general observation of the eye and person
- Check 2 – observation of the pupil size
- Check 3 – observation of the pupil's reaction to light
- Check 4 – observation of how the eye focuses and tracks [called the Nystagmus tests]
- Check 5 – observation of eye's muscle control ability [called the Convergence test]

The Rapid Eye Check™ is a tool that may be used in determining reasonable suspicion. The following guidelines shall be followed when using the Rapid Eye Check™ as a tool to determine reasonable suspicion.

The employee's supervisor will request the Rapid Eye Check™ when he/she believes there are specific, articulable, and objective facts from which it is reasonable to infer that further investigation of an employee's behavior is warranted. The employee's supervisor will refer to Section IV, Testing, Subsection B. Reasonable Suspicion Testing of the Fire Department's drug and alcohol policy."

Supervisors shall reasonably detail, in writing, the specific facts, symptoms, and/or observations, as well as any corroboration, which formed the basis for their determination for requesting a Rapid Eye Check™. This documentation of facts shall be on the Rapid Eye Check™ Incident Report Form, Attachment B. In addition, the Rapid Eye Check™ Incident Report Form shall be forwarded to the Human Resources Director.

The Human Resources Director, Human Resources Analyst, Risk Manager, Safety Technician, and designated fire department employee(s) shall be certified to perform the tests and will perform the Rapid Eye Check™. However, an employee may request that the Rapid Eye Check™ be done by any one of the above certified-individuals enumerated in this paragraph in place of the designated department employee.

If an employee refuses to submit to, or fails two (2) of the five- (5) eye checks of the Rapid Eye Check™, reasonable suspicion exists to request an employee to have a drug and alcohol test. The procedures included in the Reasonable Suspicion testing section of the Fire Department Drug and Alcohol policy shall be followed.

SECTION VI: TESTING

A breath and/or a urinalysis test under this policy shall be used in any of the following situations:

- Pre-employment testing
- Reasonable suspicion testing
- Random testing

A. Pre-employment Testing

After a conditional offer of employment and before an employee is hired, each fire fighter candidate shall be tested for alcohol and controlled substances. The conditional offer shall be withdrawn if either test indicates a positive result.

B. Reasonable Suspicion Testing:

1. Matters and circumstances that may be considered in determining reasonable suspicion include:
 - a. Information concerning a prohibited activity;
 - b. The reliability of the information;
 - c. The degree of corroboration;
 - d. Other contributing factors;
 - e. Abnormal or erratic behavior by the employee;
 - f. Information concerning recent drug or alcohol use by the employee, provided by reliable and credible sources;
 - g. Direct observation of drug or alcohol use prior to the time of an accident/incident and/or situation;
 - h. Presence of observable symptoms consistent with drug and alcohol use; including but not limited to, glassy or bloodshot eyes, alcohol odor, slurred speech, poor coordination and/or poor reflexes;
 - i. Involvement in an on-duty accident or incident. City employees who are involved in an on-duty accident or incident resulting in any of the following shall be subjected to Rapid Eye Check™:
 - (1) Loss of life;
 - (2) Employee injury or injuries to others requiring medical treatment away from the place of the accident or incident;
 - (3) Damage, estimated to be greater than or equal to \$1,000.00, to property or vehicles while operating a City vehicle;
 - (4) Employee cited by a state or local law enforcement officer for a moving traffic violation; or
 - (5) Any factor, from which it is reasonable to infer that further investigation of the accident or incident, or the employee's behavior, is warranted.
 - j. Failure of two (2) of the five (5) eye checks of the Rapid Eye Check™;
 - k. A positive test result under the Drug and Alcohol Policy for City employees who are required to have a CDL.
2. Supervisors shall reasonably detail, in writing, the specific facts, symptoms, and/or observations, as well as any corroboration, which formed the basis for their determination that reasonable suspicion existed. This documentation shall be on the backside of the "Consent to Test and Release of Information" form, Attachment A, or on a separate piece of paper attached to the consent form. In addition, this documentation is to be forwarded to the Fire Chief or his/her designee, and the Human Resources Director.
3. The facts and documentation underlying the determination of reasonable suspicion shall be disclosed to the employee at the time the demand for testing is made.
4. An employee, pending a drug/alcohol test, shall be temporarily removed from his or her job duties pending an investigation, and shall be placed on administrative leave with pay until the results of the drug/alcohol tests are received. The employee shall not be allowed to drive to or from the testing site, and the employee will be escorted to the testing facility and home by the supervisor, Fire Chief, and/or a Human Resources employee. If the employee tests positive for alcohol or drugs, the employee will continue on administrative leave, and a recommendation for termination of employment shall be made.
5. If an alcohol test is not administered within eight (8) hours or if a required controlled substance test is not administered within thirty-two (32) hours of the determination of its necessity, attempts to administer such test shall be abandoned and the reasons why the test was not administered shall be documented. Copies of this documentation shall be supplied to the Human Resources Department Director.

C. Random Testing

Random drug and alcohol testing shall be conducted for the CFD as follows:

1. At a minimum, CFD employees, excluding secretarial staff, equal in number to ten percent (10%) of the average number of CFD positions, will be selected at random for alcohol testing each year.
2. At a minimum, CFD employees, excluding secretarial staff, equal in number to twenty five percent (25%) of the average number of CFD positions, will be selected at random for controlled substance testing each year.
3. If, after any year of testing, the City Manager determines that the annual positive test rate so warrants, the percentage of random testing may be decreased or increased.
4. The method for selecting CFD employees for testing shall be determined by the City but the method shall be scientifically valid and shall result in each CFD employee having an equal chance of being tested each time a selection is made.
5. Tests shall be unannounced and spread throughout the calendar year.
6. The Human Resources Director or his/her designee shall notify the supervisor that an employee is to be tested. The supervisor will notify the employee in person as soon as the employee arrives for work or is available during a work shift.
7. Upon notification of selection, CFD employees are to proceed immediately to the test site. CFD employees shall be accompanied to the test site by a supervisor.

SECTION VII: TESTING METHODOLOGY

- A. Employees shall sign a consent form (Attachment A) allowing the breath and/or urine test to take place and permitting release of test results to the City, and for the City's use in any and all employment disciplinary or termination actions or proceedings. Employees, who refuse to sign the consent form, to be tested, or to otherwise cooperate in the testing process, shall be deemed to have tested positive and a recommendation for termination of employment shall be made.
- B. Testing for drugs and alcohol and test sample verification shall be performed by certified personnel selected by the City. The test specimen for alcohol shall consist of a breath sample. The test specimen for drugs shall be urine.
- C. Confirmation for a positive alcohol test shall be done by a second breath test. The employee may request, at their expense, a blood test as confirmation.
- D. Confirmation for a positive drug test shall be by testing the urine specimen that tested positive, on the initial screen, by using a technologically different method from the initial screening method, such as gas chromatography/mass spectrometry. All positive drug test results shall be reviewed and interpreted by a Medical Review Officer (MRO) before they are reported to the employer. "Medical Review Officer" means the individual responsible for receiving laboratory results, who is a licensed physician. If the testing laboratory reports a positive result to the MRO, the MRO shall contact the employee, in person or by telephone, and shall conduct an interview to determine if there is an alternative medical explanation for the drugs found in the employee's urine specimen. If the MRO determines that there is a legitimate medical use of the prohibited drug, the drug test result shall be reported as negative to the employer. The MRO is designated by the City's chosen provider.
- E. Each test specimen for drug testing shall be subdivided into two bottles labeled as a "primary" and a "split" specimen. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of a controlled substance, the employee, at her/his expense, has seventy-two (72) hours to request the split specimen be sent to another certified laboratory for analysis. The employee will be reimbursed if the confirmation shows a negative result. The MRO initiates this procedure.
- F. The City shall pay the cost of all tests, which it requires. If an employee is required to submit to an examination or test, or await test results, the employee shall be paid his or her normal rate of pay during the testing and waiting period.
- G. In the event that an individual to be tested for drugs appears unable to provide a urine specimen at the time of the test, he or she shall be permitted no more than three (3) hours to give a specimen, during which time the individual shall remain in the testing area, under observation. The individual shall be given no more than forty (40) ounces of water to

drink over the course of the three hours. Whenever there is a reason to believe that a specimen may have been altered or a substitution made, a second specimen shall be immediately provided by the employee. The testing facility will provide documentation to the Human Resources Department Director explaining the reasons for a second specimen. Failure to submit a specimen shall be considered a refusal to submit to a drug and/or alcohol test unless a physician provides a documented medical reason. A refusal to submit to the drug/alcohol test shall be deemed to be a positive test and a recommendation for termination shall be made.

- H. The Human Resources Director or his/her designee shall be advised of the results of the drug and/or alcohol test by the Medical Review Officer.

SECTION VIII: HANDLING TEST RESULTS, RECORD RETENTION, AND CONFIDENTIALITY

- A. The Human Resources Department Director or her/his designee shall maintain records of alcohol, controlled substance, and drug misuse in a secure location with access restricted to the employee, the City Manager, the Human Resources Department Director, Employee Relations Manager, Risk Manager, the employee's supervisor, and City legal counsel.
- B. The following records shall be retained for five years:
 1. Records of alcohol test results showing blood alcohol content.
 2. Records of verified positive controlled substance/drug test results.
 3. Documentation of refusals to take required alcohol or controlled substance/drug tests.
 4. Consent to Test and Release Information forms.
 5. Calibration testing records (kept at the testing/laboratory facility).
- C. An employee's test results shall be available for inspection by the employee.
- D. Records relating to an employee's drug/alcohol testing or misuse of drugs/alcohol may be used and disclosed in any and all termination or disciplinary actions or proceedings by the City. Such records shall not be released to other third parties without the employee's consent absent a court order.
- E. An employee's supervisor shall be informed of a confirmed positive test result by the Human Resources Director or his/her designee.
- F. The confidentiality of an employee's drug/alcohol testing and the records related thereto shall be waived for purposes of hearings and further proceedings if the employee appeals his/her termination, or brings or commences an action against the City in any court or administrative agency which is based on, or in any way related to the employee's drug/alcohol test. The City shall have the right to disclose and use the employee's drug/alcohol records and documentation only in the defense of, and in the course of any such appeal, court, or administrative action.

I, **** Print **** (Last Name) (First Name) (MI)

☐ In the event that an employee cannot read, this form should be read to the employee.

☐ The supervisor(s) or Risk Management employee requesting reasonable suspicion or serious incident testing shall provide [on the back of this form or on an attached sheet, if necessary] a reasonably detailed explanation of what circumstances, and how the request was made and when this form was provided to the employee.

ATTACHMENT A - FIRE DEPARTMENT DRUG AND ALCOHOL POLICY

- ☐ This form and any attachments must be provided to the Human Resources Department Director. See City of Casper Fire Department Drug and Alcohol Testing Policy, Reasonable Suspicion Testing for a list of matters and circumstances that may be considered in determining reasonable suspicion.

If a City employee was involved in an accident or incident, what circumstances triggered a drug and alcohol test to be performed? Please check the appropriate box below.

- ☐ Employee injuries or injuries to others requiring medical treatment away from the place of the accident or incident
- ☐ Loss of Life/Fatality
- ☐ One or more vehicles were disabled and/or towed or incurred ~\$1,000 or more of damage
- ☐ A citation for a moving violation.
- ☐ Fatality

If the employee was not involved in an accident or incident, reasonably detail the matters and circumstances that were considered in determining that the employee submit to a drug/alcohol test:

How was the request made to the City employee to be drug and alcohol tested? _____

When was this form reviewed and provided to the City employee (time/date)? _____

RAPID EYE CHECK™

INCIDENT REPORT FORM

Name of Individual: _____

Date of Incident: ____/____/____ Time of Incident: _____ a.m. or p.m.

Instructions:

Use this form to document the decision to conduct the Rapid Eye Check on an employee who is reasonably believed to be impaired by alcohol or other drugs. This form is to be filled out and signed by at least one supervisor. When possible, two supervisors should sign.

Complete this form while conducting the Rapid Eye Check test.

Conduct body fluid testing only when the employee has failed 2 of the 5 Rapid Eye Check tests, and has signed a consent form.

Rapid Eye Check Test Results™:

- | | | | |
|----|---|------|------|
| 1. | Observation of the eye (swollen or droopy eyelids/redness of sclera) or another matter or circumstance that may be considered in determining reasonable suspicion | Fail | Pass |
| 2. | Pupil Size (both eyes) | Fail | Pass |
| 3. | Pupil Reactive to Light (both eyes) | Fail | Pass |
| 4. | Nystagmus (tracking and proper focus) | Fail | Pass |
| 5. | Convergence (cross and hold for 3 to 4 seconds) | Fail | Pass |

Notes of Observations:

Signature of Supervisor(s) making the determination:

Signature_____	Signature_____
Date and time_____	Date and time_____

Appendix D
Prince William County
Department of Fire and Rescue
Procedure

1. **Purpose:**

- 1.1. Identify the process for substance abuse testing within the Department of Fire and Rescue, pursuant to Fire and Rescue Association Policy 4.0.1, titled Anti-Substance Abuse Program.

2. **Authority:**

- 2.1. This procedure is issued by the Chief of the Department of Fire and Rescue.

3. **Policy:**

- 3.1. This Policy is to ensure a safe and drug-free work environment by prohibiting specific behaviors and by instituting alcohol and drug testing.

4. **Definitions:**

- 4.1. **Adulterated** To make impure by the addition of a foreign or inferior substance or element.
- 4.2. **Alcohol** Any substance that may be consumed and contains ethanol.
- 4.3. **Alcohol Screening** Alcohol screening is an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or blood specimen.
- 4.4. **Appropriate Chief Officer** A Superior Chief Officer within the chain-of-command of the effected employee.
- 4.5. **Chief** The Department of Fire and Rescue Chief or his/her designee.
- 4.6. **Controlled Substance "Drug or Drugs"** As defined in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. Section 812;21 C.F.R. Part 1308, 1989, as amended) or in Schedules I through VI of the Drug Control Act of 1970 (VA Code Sections 54.1-3400, 54.1-3446, 54.1-3448, 54.1-3450, 54.1-3452 and 54.1-3456, as amended).
- 4.7. **Confirmation Test** A urinalysis method of detecting the presence of drugs in an individual. Confirmation test will utilize the Gas Chromatography/Mass Spectrometry Method (GC/MS).

- 4.8. **Department** The Prince William County Department of Fire and Rescue.
 - 4.9. **Drug Screening** A urinalysis method of detecting the presence of drugs in an individual. Drug screenings will utilize the Enzyme Multiple Immunoassay Method (EMIT).
 - 4.10. **Medical Review Officer** A licensed physician who receives the laboratory results and has appropriate training to interpret and evaluate drug and alcohol test results.
 - 4.11. **Member** Any person appointed to the Department of Fire and Rescue as a full-time, regular, salaried, uniformed individual.
 - 4.12. **On-Duty** A member is considered "on duty" during all compensable hours and/or when the member is acting in an official capacity on behalf of the Department.
 - 4.13. **Reasonable Suspicion** A belief based upon objective, articulate facts and reasonable inferences drawn from those facts that a person has engaged or is engaging in conduct prohibited by this Department procedure.
 - 4.14. **Safety Sensitive** A broad term that applies to all activities encountered in the mitigation of emergency incidents. Activities included, but not limited to, are fire suppression, EMS delivery, training activities, duty crew assignment, home response, operation of vehicles and equipment, public education programs, public services, and other activities that involve the public trust or present a safety risk.
5. **Procedure:**
- 5.1. Personnel to be Screened
 - 5.1.1. Hiring Process - Applicants for employment with the Department in any position considered to be a safety-sensitive function will be tested for drug use as one of the final steps in the pre-employment screening process. Applicants will be notified of this requirement as part of the prescreening phase of the pre-employment process.
 - 5.1.2. Random - All members (as defined in this policy) will be subject to unannounced random drug screenings.
 - 5.1.3. Scheduled - Members will undergo drug screenings as part of their scheduled comprehensive physical assessments.
 - 5.1.4. Reasonable Suspicion - A member may be ordered by the Chief, or designee, to submit to a drug screening based on a reasonable suspicion that he or she is using or has used illegal drugs and or is under the influence of alcohol. The verbal order shall be put in writing within 48 hours and given to the employee for documentation.

5.1.5. Accident Follow Up-

5.1.5.1. All members that are operating county or volunteer owned vehicles are subject to post-accident drug and alcohol test, (only if the vehicle was in motion), under the following circumstances:

After an accident involving a fatality (loss of life).
If determined to be at fault by police on the scene.
If anyone involved in the accident is transported to hospital.

5.1.5.1.4. If one or more of the vehicles involved in the accident are towed from the scene of the accident.

5.1.5.1.5. The Health and Safety Officer will have final determination/discretion on post-accident testing. The Health and Safety Officer shall put their reasoning for post-accident testing in writing within 48 hours of accident.

5.1.5.2. If a member is involved in an accident outside of Prince William County while driving a county or volunteer owned vehicle or if on duty; they are required to: Notify the Prince William County Public Safety Communications Center of the accident. The on duty Lieutenant will notify the on duty Health and Safety Officer and will provide contact information for the involved member.

Obtain the following information from police officer on the scene:

5.1.5.2.2.1 Name and badge number of the officer

5.1.5.2.2.2. Jurisdiction (county or state)

5.1.5.2.2.3. Telephone number of officer on scene

5.1.5.2.2. If the accident requires post-accident drug and alcohol testing:

5.1.5.2.3.1. In county accidents the member will be transported to employee health within 3 hours. If employee health is not available the member will be transported to occupational health or Prince William Hospital within 3 hours of the accident.

5.1.5.2.3.2. Accidents outside Prince William Co. where the member is unable to return to have post-accident alcohol testing done within 3 hours of the accident will be required to have a breath alcohol test done by the reporting police jurisdiction.

5.1.5.2.3.3. Accidents outside Prince William Co. where the members is unable to return to have post-accident drug testing within 8 hours of the accident will be required to go to the local hospital for testing. This test will be paid by the department.

- 5.1.5.2.3.4. Members will be held on duty until testing is completed. The member will be compensated for the time. The employee will be compensated at their overtime rate if applicable.

5.2. Methodology

- 5.2.1. The collecting and testing of samples will be conducted under the following guidelines:
 - 5.2.1.1. Drug screening during normal business hours. Testing will be conducted by the Prince William County Health District, Employee Health. If this facility is not available, a secondary facility may be utilized.
 - 5.2.1.2. Drug screening secondary and after business hours, testing will usually be conducted by Prince William Hospital, Occupational Health Unit.
 - 5.2.1.3. If the member is outside the county and further than 3 hours away from the two designated test sites the member will be required to have test done at closest hospital.
 - 5.2.1.4. If the member is injured and transported to a hospital, the receiving hospital will be required to do the testing.
 - 5.2.1.5. Drug screening will consist of urinalysis testing utilizing EMIT method for initial testing.
 - 5.2.1.6. The individual to be tested will provide two urine samples in accordance with the instructions provided by the testing facility (Attachment A). The testing facility will ensure the individual does not have access to foreign substances that could be used to taint or alter the specimen.
 - 5.2.1.7. At the time of the urine sample collection, the involved member will complete a form indicating all medications used in the proceeding two-week period.
 - 5.2.1.8. Alcohol testing may be done using blood alcohol or breath alcohol. A receiving facility's protocol may be to administer a DOT approved saliva test for blood alcohol first; if the results are positive a blood or breath alcohol test will be administered as a confirmation process.
- 5.3. Drug Screening Results
 - 5.3.1. Drug screenings results will be provided to the Health and Safety Office. These test results will be considered confidential and dissemination of said information will be limited to those designated by the Chief. (Members will have access to their individual test results).

- 5.3.2. The Health and Safety Office will maintain a record of drug screening results in a confidential and secured file.
- 5.3.3. In the case of a positive test reading (one where the presence of illegal drugs is detected), Employee Health or other screening facility will automatically have the sample retested. If the second test is positive the screening facility will notify the F&R Health and Safety Officer and the original specimen will be sent to the outside lab for confirmation testing. The Chief or designee shall direct the sample testing positive be tested again utilizing an outside lab. The following is a listing of cut-off levels for drugs of abuse and alcohol.

Marijuana	20ng/ml
PCP	25ng/ml
Barbiturates	300ng/ml
Benzodiazepines	300ng/ml
Cocaine	300ng/ml
Opiates	300ng/ml
Blood Alcohol	0.01 gr/dL
Breath Alcohol	0.02%

- 5.3.4. If the third test results in a positive reading (one where the presence of illegal drugs is detected), the results of the third drug screenings will be deemed as reasonable suspicion to order a confirmation test for the individual involved.
- 5.3.5. The involved member with a positive test result of the third test, will have the right to send a second sample (which was taken at the same time as the tested sample) to a laboratory of his/her choice for independent testing in accordance generally with Section 18.2-268 *et seq., as amended.* of the State Code, as amended. (Said testing will be conducted in accordance generally with State Code, Section 9.1-905, as amended. The member shall notify the Chief in writing of his request to have a second sample tested within ten days of being notified of positive specimen results. The second sample testing will be at the member's cost. Laboratories must be certified by the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA).
- 5.3.6. In the case of an invalid test reading (one where at least one drug is reading invalid). Employee Health or other screening facility will automatically have the sample retested. If the second test is invalid the screening facility will notify the F&R Health and Safety Officer and the original specimen will be sent to an outside lab for additional testing.
- 5.3.7. If the invalid test reading is due to adulteration, it will be dealt with on a case by case basis. If an invalid test is determined to be due to deliberate tampering with the testing process the test will be considered a positive result and the member will receive due process per 5.8.1. of this procedure.

- 5.3.8. The drug screening facility with approval from the Health and Safety Office can have any urine sample sent out to an outside lab due to invalid results or equipment malfunction.

5.4. Confirmation Test

- 5.4.1 The Chief or designee will authorize all confirmation testing.
- 5.4.2. Once the Chief or designee orders a confirmation test utilizing the original specimen, the appropriate chief officer will coordinate the process with the assistance of the Health and Safety Office.
- 5.4.3. The confirmation testing will involve urinalysis testing, utilizing the GC/MS Method and/or a hair sample analysis.
- 5.4.4. Confirmation testing will be conducted by independent private laboratories certified by the U.S. Department of Health and Human Services (SAMHSA).
- 5.4.5. The collection facility will deliver the samples for confirmation testing to the designated laboratory for GC/MS analysis. Laboratory test results will be returned to the medical review officer for review. A medical opinion will be issued to the Chief by that physician.
- 5.4.6. Members testing positive by means of the confirmation test will be placed on administrative leave. All positive tests will result in appropriate follow-up action in accordance with the Prince William County Personnel Policy, Drug Free Workplace Section 25, and the individual will be subject to disciplinary action up to and including termination.

5.5. Alcohol Related Testing

- 5.5.1. When there is a reasonable suspicion that a member is under the influence, or may have alcohol on his/her person while on duty, that member will be required to submit to a blood test or a breathalyzer test to determine the presence of alcohol in his/her blood. Random or scheduled screenings will not be conducted for alcohol use.
- 5.5.2. The appropriate Chief Officer shall be notified; and, in coordination with the Health and Safety Office, alcohol related testing shall be conducted and documented.
- 5.5.3. Members directed to submit to a blood or breathalyzer test must be informed of the facts giving rise to a reasonable suspicion for which the test is being directed. They will also be informed that if the test shows

positive results, the member could be subject to disciplinary action up to and including termination.

- 5.5.4. All positive tests will result in appropriate follow-up action in accordance with the Prince William County Personnel Policy, Drug Free Workplace Section 25, and the individual will be subject to disciplinary action up to and including termination.

5.6. Notifications to Members Who Are to be Screened for Drugs or Alcohol

- 5.6.1. Members who are ordered by the Chief or designee to provide a sample of their urine, blood, breath, or hair for screening purposes shall report to the designated location on the date and time specified by the order. This includes routine physical appointments.

- 5.6.2. All persons required to submit to substance abuse testing as a result of an action identified in section 5.1.4 or 5.1.5, shall be escorted by Health and Safety Officer or designee to and from the testing site.

5.6.3. Random Screening

- 5.6.3.1. The Health and Safety Office shall, through random computer selection, identify, notify, and schedule members for drug screening on a monthly basis.

- 5.6.3.2. The Health and Safety Office shall select 4 percent of members per month through the random selection process.

- 5.6.3.3. The Health and Safety Office shall confirm with the collection facility the members kept appointments. The appropriate Chief Officer will be notified when appointments are not kept.

- 5.6.3.4. The Health and Safety Office shall keep appropriate records concerning selection, notification, scheduling, and results for all testing.

- 5.6.3.5. The staffing officer will schedule and notify members for random drug testing.

- 5.6.4. Confirmed positive tests will result in appropriate follow-up action in accordance with the Prince William County Personnel Policy Drug Free Workplace Section 25, and the individual will be subject to disciplinary action up to and including termination.

5.7. Rehabilitation

- 5.7.1. The Department recognizes that substance abuse is a problem that can often be effectively treated. Members who may be suffering from any type of problem, including drug or alcohol related problems, are encouraged to voluntarily seek diagnostic counseling and treatment services available through the County's Employee Assistance Service at 1-800-448-4434. A trained counselor will be available on a 24-hour basis to discuss problems or make arrangements for personal consultation.

5.8. Due Process

- 5.8.1. Any complaint of illegal drug use by members or any member testing positive, as outlined in this procedure, will result in an investigation by the appropriate Chief Officer with assistance from the personnel officer in accordance with the Department's policies, procedures, and directives pertaining to disciplinary action. All disciplinary actions taken will be administered in accordance with the Prince William County Personnel Policy, Rules of Conduct Section 14 and the Department's policies, procedures and directives.

6. **Responsibility**

6.1. **Members**

- To be alcohol free while on duty.
- To be free of illegal drugs at all times.
- Comply with all orders for testing in an expeditious manner.
- Report suspicions to the appropriate supervisor.

6.2. **Officers**

- Assure subordinates are drug and alcohol free while on duty.
- Report violations to the appropriate supervisor.
- Document violations and coordinate with the appropriate Chief Officer.
- Perform investigations as required and coordinate with the appropriate Chief Officer.

6.3. **Battalion Chiefs/Chief Officers**

- Perform investigations and document incidents.
- Coordinate with the Safety Officer.
- Assure subordinates are expeditious in obtaining screening.
- Assure subordinates are returned to safety-sensitive functions appropriately.

6.4. **Health and Safety Office**

- Notify all potential applicants of this procedure.
- Oversee this procedure and assure compliance as per the requisites of this procedure.
- Assist chief officers in the investigative process.
- Perform random selection, notification, and scheduling of drug screening.
- Maintain records concerning this procedure.
- Review this procedure and update as needed.

6.5. **Medical Review Officer**

- Review and interpret test results as outlined in policy.
- Advise and consult on program performance.

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Appendix E

Prince William County Department of Fire and Rescue
Drug Screening Collection Procedure

- I. Purpose:
 - A. The purpose of these procedures is to ensure the integrity of the collected specimen and the chain-of-custody (COC) process.
- II. Logistics:
 - A. Test four percent of uniform workforce per month.
 - B. All random testing performed will be performed at Employee Health.
 - C. Employee Health's hours are 7:30 am-12:00 pm and 1:00 pm to 4:30 pm, Monday through Friday, closed on County holidays. To ensure enough time for the employee to produce a specimen, the preferred hours for random drug screening are 1:00 pm to 2:30 pm.
 - D. The Staffing Captain will detail coverage to replace the Operations personnel as needed.
 - E. Personnel selected for random testing will be notified on the day they are scheduled for testing.
 - F. Personnel are expected to report directly to Employee Health when notified of testing.
- III. Supplies:
 - A. Drug testing forms
 - B. Sink with hand-washing needs.
 - C. Restroom where water supply can be cut off or sealed shut. Bluing agent to be used in toilet.
 - D. Sealed urine collection containers, labels, temperature sensors, evidence tapes.
- IV. Reception Procedures:
 - A. Upon arrival, the employee will notify Staffing they have arrived at Employee Health.
 - B. Remove non-essential clothing—personal items, coats, hats, handbags, briefcases & equipment—items to be secured in vehicle.
- V. Collection Procedure:
 - A. The employee will provide a photo ID for verification, i.e. Fire Department identification or driver's license, and verification will be documented on the Drug Test Consent form.
 - B. Collector asks employee to empty their pockets. Items that may contaminate specimens will be identified by the collector and removed. Items that would intentionally adulterate the specimen will be confirmed by

the Employee Health supervisor. The collector will visually examine the employee for any concealed specimens or tampering devices. Any unusual behavior or appearance should be noted as “remarks concerning collection”. The Department of Fire and Rescue (DFR) Health and Safety Officer will be notified and an “observed collection” will be conducted. Any unaffected items may be returned to their pockets.

- C. The collector gives the employee the appropriate forms and assists individual by answering any questions.
- D. The collector will assign a number from the drug testing log and record the donor information as provided.
- E. The collector will instruct the employee to wash and dry hands thoroughly in the presence of the collector. The collector will pay particular attention to any adulterating substances which may be lodged under fingernails or strapped to the arms or hidden by clothing.
- F. After washing hands, the employee will remain in the presence of the collector with no access to water fountains, faucets, soap dispensers, cleaning agents, purse, or briefcase.
- G. The collector instructs employee to select a sealed container.
- H. The employee will select one sealed urine collection container.
- I. The collector will instruct the employee that at least 60 ml of urine is needed, and not to their wash hands until the specimen is given to the collector. The employee will enter the secured restroom. The collector will start a five (5) minute timer. Documentation is needed if the employee does not return in reasonable time (5 minutes).
- J. If the employee cannot give the minimum of 60 ml specimen. The donor is given a cup to obtain water while waiting at the collection site. Fluids will not to exceed 40 oz within 60 minutes. If the employee is unable to give the minimum amount within a reasonable time (3 hours), the collector will contact the Personnel Officer (or designee). The employee must remain “on site” during the waiting period.
- K. The collector will wait outside the restroom to receive the specimen and check the specimen temperature within four minutes of collection. For specimens not within the temperature range:
 - 1. The collector will complete the COC procedure and call the Personnel Officer (or designee) concerning temperature before the employee leaves the facility. He may request a second collection and/or cancellation of this test.
 - 2. The second collection should be given a new drug testing number. Start again at the beginning of the procedure, including the hand washing. It will be documented that this is the second of two specimens. The collector will also record the name of the person who directed that a second collection be conducted.
- L. The employee is then allowed to wash their hands while the specimen can be seen by both the collector and the employee.

- M. The collector shall observe the specimen's color and appearance. All suspicious findings should be documented. Examples of suspicious urine include the color of the urine (green or blue specimens) or odor (such as bleach). The employee will not be questioned by the collector.
 - N. The employee will select a second sealed urine container. The collector will split the sample and seal the container tightly. The collector will label both containers with identifying information and seal it with evidence tape that is initialed and dated by both the collector and the employee. The tape will be placed on the lid and down the sides of the container. The label will not be covered.
 - O. The employee and collector will complete certification statements. If the employee refuses, the collector will write, "donor refused to sign" and will notify the Personnel Officer.
 - P. The specimens will be placed in a secured refrigerator until testing is performed.
 - Q. The employee should notify Staffing when leaving Employee Health.
- VI. Any refusal to follow policy is cause for notification of the DFR Health and Safety Officer and the employee may be subject to disciplinary action.

Appendix F

Johnson City Policy

SUBSTANCE ABUSE BY CITY EMPLOYEES AND APPLICANTS FOR CITY POSITIONS

SECTION I - PURPOSE OF THE DRUG AND ALCOHOL TESTING PROGRAM

The City of Johnson City recognizes its responsibility to provide safe and efficient operations for our employees, our citizens and the general public. Our commitment to provide safe and efficient operations is shown by the implementation of programs and procedures which ensure compliance with appropriate safety measures, as well as the letter and intent of all applicable laws and regulations. There is sufficient evidence to conclude that the use of illegal drugs/alcohol, drug/alcohol dependence and drug/alcohol abuse seriously impairs an employee's performance and general physical and mental health. The illegal possession and use of drugs, alcohol and/or narcotics by employees of the City is a crime in this jurisdiction and is clearly unacceptable. Therefore, the City of Johnson City has adopted this written policy to: 1) ensure an employee's fitness for duty as a condition of employment; 2) to ensure that drug tests and alcohol tests are conducted on safety-sensitive positions in the categories of: pre-employment, random testing, suspicion testing, post-accident testing, and return-to-duty testing. This policy will serve to bring the City in compliance with the Department of Transportation Drug and Alcohol Testing Policy and the Tennessee Drug Free Workplace Act.

SECTION II - POLICY OBJECTIVES

1. To establish and maintain a safe, healthy work environment for all employees.
2. To ensure the reputation of the City and its employees as good, responsible citizens worthy of the public trust.
3. To reduce the incidence of accidental injury to person(s) or property.
4. To reduce absenteeism, tardiness and indifferent job performance.
5. To provide assistance toward rehabilitation for any employee who seeks the City's help in overcoming any addiction to, dependence upon, or problem with alcohol or drugs.
6. To come into compliance with the Drug Free Workplace Act of 1988 and with Regulation 49 CFR Part 653 and 654 and 49 CFR 382, the Omnibus Transportation Employee Testing Act.

SECTION III - GENERAL RULES

- A. City employees shall not take or be under the influence of any dangerous substances while on duty unless prescribed by the employee's treating licensed physician. Employees who are required to take prescription medicine or over-the-counter medication should notify their immediate supervisor(s) if that medication would have the effect of hindering the employee's performance on the job.
- B. All property belonging to the City is subject to inspection at any time without notice, as there is no expectation of privacy.
 1. Property includes, but is not limited to, vehicles, desks, containers, files, and storage lockers.
 2. Employees assigned lockers (that are locked by employees) are also subject to inspection by the employee's supervisor(s) after reasonable advance notice and in the presence of the employee unless waived by the City Manager.
- C. City employees who have reason to believe another employee is illegally using drugs or narcotics shall report the facts and circumstances immediately to their supervisor.
- D. Failure to comply with the intent or provisions of this general policy may be used as grounds for disciplinary action up to and including discharge.

SECTION IV - DEFINITION OF TERMS

Alcohol or Alcoholic Beverage - Means any beverage that may be legally sold and consumed and that has an alcoholic content in excess of .5% of volume.

Drug - Means any substance (other than alcohol) capable of altering mood, perception, pain level, or judgment of the individual consuming.

Prescription Drug - Any substance prescribed for the individual by a licensed medical practitioner.

Reasonable Suspicion - Belief based on objective facts sufficient to lead a reasonably prudent person(s) to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform his or her job safely is reduced.

Impairment - Being unable to perform duties safely and competently due to the use of alcohol or a controlled substance.

Physical Provider, (Medical Review Officer) - The office of a licensed and authorized medical physician that will conduct the physical examination of the patient and receive the results from the laboratory.

Chain of Custody - Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to the final disposition of the sample.

Immunoassay Screen - An initial chemical reaction testing process to eliminate "negative" urine specimens from further consideration.

Confirmatory Test - A second analytical procedure to identify the presence of a specific drug or its metabolite. This procedure is independent of the initial test and uses the gas chromatography mass spectrometry for confirmation.

Random Testing - A system of drug testing imposed without individual suspicion that a particular individual is using illegal drugs, and may either be:

1. Uniform - Unannounced testing of designated employees occupying a specified area, element or position;
2. A statistically random sampling of such employee(s) based on a neutral criterion, such as social security numbers or employee ID numbers; or
3. Applies to safety sensitive positions.
- 4.

Supervisor - An employee having the authority to recommend to hire, direct, assign, promote, reward, transfer, layoff, suspend, discipline, or remove other employees, and whose authority is exercised by constant independent judgment.

Verified Positive Results - A test result that was positive on any initial immunoassay test, confirmed by a gas chromatography/mass spectrometry assay, and reviewed and verified by the medical review officer.

SECTION V - DRUGS TO BE TESTED FOR

When drug and alcohol screening is required under the provisions of this policy, a urinalysis test will be given to detect the presence of the drug groups listed below. This list is not intended as an exhaustive inventory of every drug for which the employee can be tested. The selection of drugs is based on the minimum requirements of 49 CFR Part 382 and 653 of the Department of Transportation Drug Testing Program. In addition to the DOT panel, the City may also use a nine panel screen for those positions that are safety sensitive but do not come under the DOT drug and alcohol testing regulations.

FIVE PANEL SCREEN

1. Amphetamines/Methamphetamines
2. Cocaine
3. Opiates (e.g. codeine, heroin, morphine, hydromorphone hydrocodone)
4. Phencyclidine (PCP)
5. THC (marijuana)
6. Alcohol Screen

NINE PANEL SCREEN

Amphetamines/Methamphetamines
Barbiturates
Benzodiazepines
THC (marijuana)

Cocaine
 Methadone
 Opiates (e.g. codeine, heroin, morphine, hydromorphone hydrocodone)
 Phencyclidine (PCP)
 Propoxyphene
 Alcohol Screen

SECTION VI - PRIOR NOTICE OF TESTING POLICY

The City shall provide written notice of its Drug and Alcohol Testing Policy to all employees and job applicants. The notice will contain the following:

- The need for drug and alcohol testing.
- The circumstances under which testing may be required.
- The procedures for confirming an initial positive drug test result.
- The consequences of a confirmed positive test result.
- The consequences of refusing to undergo a drug and alcohol test.
- The right to explain a positive test result and the appeal procedures available.
- The availability of drug abuse counseling and referral services.

SECTION VII - CONSENT

Before a drug and alcohol test is administered, affected employee(s) and applicant(s) will be asked to sign a consent form authorizing the test and permitting the release of test results to those City officials with a need to know. The consent form shall provide space for employee(s) and applicant(s) to acknowledge that they have been notified of the City's Drug and Alcohol Testing Policy and to indicate current or recent use of prescription or over-the-counter medication.

The consent form shall also set forth the following information:

- The procedure for confirming an initial positive test result.
- The consequences of a confirmed positive test result.
- The right to explain a confirmed positive test result and the appeals procedures available.
- The consequences of refusing to undergo a drug and alcohol test.

SECTION VIII - THE TESTING OF DESIGNATED POSITIONS

The following positions and applicants that come under 49 CFR 653 and 49 CFR 382 and positions of a safety sensitive nature are as follows:

Applicants and employees who are required to obtain a commercial driver's license to perform the duties of their job, and Applicants and employees covered under CFR 49 Part 652, 654 and 382 and employees in safety sensitive positions in the Police Department and Fire Department and other departments as the City may designate.

SECTION IX - CITY DEPARTMENTS AFFECTED

- A. Employees of a department which require the employee to obtain a Commercial Driver's License (i.e. Public Works, Water/Sewer, Park and Rec, etc.)
- B. Transit Department - Drivers, supervisors and support personnel.
- C. Motor Transport Department - Mechanics, supervisors and support personnel who are required to have a CDL, and are conducting maintenance functions on transit equipment.
- D. The Police Department - Those personnel performing safety functions in the Police Department. (Sworn Officers and Correctional Officers)
- E. The Fire Department - Those personnel that are performing safety sensitive functions in the Fire Department.
- F. All applicants for regular full-time and regular part-time positions with the City and current employees that drive City vehicles.

SECTION X - REQUIRED CATEGORIES OF TESTING

- A. Pre-employment Testing - To comply with 49 CFR 653, 654 and 382, all applicants for positions of a safety sensitive nature and all applicants that are required to obtain a CDL to perform their job functions and all other regular full-time and regular part-time applicants will be required to submit to a urine test for the purpose of detecting drug use. Applicants will be notified of this requirement prior to being offered employment with the City. A positive confirmed test will preclude employment of the applicant.
- B. Reasonable Suspicion Testing - This test is requested when a trained supervisor or City official observes behavior or appearance of an employee that is characteristic of alcohol or drug use in the work place. Circumstances which constitute a basis for determining "Reasonable Suspicion" may include but are not limited to:
 - 1. A pattern of erratic or abnormal behavior.
 - 2. Information provided by a reliable, credible source.
 - 3. A work-related accident.
 - 4. Direct observation of drug or alcohol use.
 - 5. Presence of physical symptoms of drug or alcohol use (glassy or bloodshot eyes, alcohol or odor on breath, slurred speech, poor coordination and/or reflexes).

- C. Supervisors are required to detail, in writing, the specific facts or observations which formed the basis for their determination that reasonable suspicion existed to warrant the testing of an employee. This documentation shall be forwarded to the Director of Human Resources for appropriate action.
- D. Post-Accident Testing - Post-accident testing is required by 49 CFR 653 when an employee performing in a safety sensitive function or any employee operating a City vehicle either contributed to an accident, or cannot be completely discounted as a contributing factor to an accident, (as determined by a citation for a moving traffic violation) and for all fatal accidents even if the driver is not cited for a moving traffic violation.
- E. Random Testing - 49 CFR requires that random testing be conducted on a random unannounced basis just before, during, or just after performance of safety sensitive functions. The number of random tests will be equal to 50% of all affected employees each year for drug use and 10% of all affected for alcohol. All employees in safety sensitive positions are subject to random testing.
- F. Return to Duty and Follow Up Testing - Return to duty testing is required when an employee refuses to take or does not pass a drug and alcohol test prior to that person's return to a safety -sensitive position. Such an individual must pass a return-to-duty drug and alcohol test and a physician must determine that the employee may return to duty. An employee who is subject to follow-up testing may be administered an unannounced drug and alcohol test for up to 60 months after the employee returns to their position.

SECTION XI - REFUSAL TO CONSENT - APPLICANT

A job applicant who refuses to consent to a drug test for a position with the City will be denied employment with the City.

SECTION XII - REFUSAL TO CONSENT - CURRENT EMPLOYEES

An employee who refuses to consent to a drug and alcohol test when reasonable suspicion, random test, post accident, return to duty or other test mandated by this policy will be removed from his/her position and is subject to disciplinary action up to and including discharge. The reason(s) for the refusal shall be considered in determining the appropriate disciplinary action.

SECTION XIII - CONFIRMATION OF TEST RESULTS

An employee or job applicant whose drug or alcohol test yields a positive result shall be given a second test using a gas chromatography mass spectrometry test. The second test shall use a portion of the same sample withdrawn from the employee or applicant for use in the first test. If the second test confirms the positive test result, the employee applicant shall be notified of the results in writing by the Medical Review Officer and Human Resources Director. The letter of notification shall identify the particular substance found and its concentration. An employee or applicant whose second test confirms the original positive test results may, at the employee's or applicant's expense, have a split sample test conducted on the same sample at an approved laboratory chosen by the employee or applicant.

SECTION XIV - CONSEQUENCES OF A CONFIRMING POSITIVE TEST RESULT - APPLICANT

Job applicants will be denied employment with the City if their initial positive test results have been confirmed. Applicants shall be informed in writing if they are rejected on the basis of confirmed positive drug test results.

SECTION XV - CONSEQUENCES OF A CONFIRMING POSITIVE TEST RESULT - CURRENT EMPLOYEE

If a current employee has a positive test result confirmed, the employee must be removed from his/her position and a recommendation to discharge the employee for violation of the City's substance abuse policy will be made to the City Manager. The City's no tolerance policy is effective July 1, 2005.

No disciplinary action should be taken against employees who voluntarily identify themselves as substance abusers, obtain counseling and rehabilitation, and thereafter refrain from violating the City's policy on drug and alcohol use.

SECTION XVI - APPEAL THROUGH THE CITY'S GRIEVANCE POLICY

If an employee's positive test results have been confirmed, the employee must be removed from their position and a recommendation to discharge the employee for violation of the City's substance abuse policy will be made to the City

Manager. The employee is entitled to make use of the City's Grievance Policy (HR-121) to present evidence and witnesses on his or her behalf and to confront the evidence and witnesses used against him or her.

SECTION XVII - CONFIDENTIALITY OF TEST RESULTS

All information from an employee's or applicant's drug and alcohol test is confidential and only those individuals with a need to know are to be informed of the test results. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee or applicant. The results of a positive drug test shall not be released until the results are confirmed. The records of unconfirmed positive test results and negative test results shall be destroyed by the testing laboratory.

SECTION XVIII - LABORATORY TESTING REQUIREMENTS

All drug and alcohol testing of employees and applicants shall be conducted at medical facilities or laboratories selected by the City. To be considered as a testing site, a medical facility or laboratory must submit a written description of the procedures that will be used to maintain the samples. This submission will be maintained by the City's Human Resources Department. As per Department of Transportation Regulations, the medical facility and lab must meet National Institute on Drug Abuse (NIDA) certification.

SECTION XIX - DRUG SCREENING PROCEDURES

1. The drug and alcohol screening procedure is explained to the individual, and any questions will be answered by the Human Resources Director or the physical provider.
2. The individual will be asked by the Human Resources Director to sign a waiver giving permission to perform the drug and alcohol screen. Upon completion of the waiver, Human Resources will arrange an appointment with the physical provider for the applicant to be tested.
3. The applicant or employee will visit the physical provider at the designated time and location.
4. In open view of the patient, the physical provider will remove all items from the testing kit envelope.
5. In view of the patient, the physical provider will affix the color-coded, numbered labels to the side of the urine collection bottle, consent and waiver form and on the front of the kit envelope where indicated.
6. The physical provider will fill out all information requested on the laboratory requisition form.
7. The physical provider will have the patient read and sign the consent and waiver form, and then the form will be signed and dated by a witness.
8. The physical provider will hand the patient a specimen cup and instruct the applicant or employee to void directly into the cup and return the specimen directly to the provider. The individual may provide the specimen in the privacy of a stall or otherwise partitioned area that has been designated that would allow for accurate collection and privacy.
9. When the sample has been taken, in view of the patient, the physical provider will remove the screw top on the urine bottle and break and remove the bottle integrity seal. The urine sample will be transferred from the specimen cup to the bottle. The top is replaced and the urine bottle seal is affixed to the bottle so that the cap cannot be removed without damaging the seal.
10. The physical provider will place the filled and sealed urine bottle in the kit envelope and moisten the flap and seal it. Then the provider will place the red evidence seal where indicated on the envelope and initial and date.
11. The physical provider will retain the pink copy of the requisition form and the consent and waiver form for their files.
12. The white and yellow copies of the requisition will be attached to the kit.
13. The physical provider will hand the kit directly to the lab courier and instruct the courier to sign the first entry on the chain of possession under "received" and write the date and time the kit was received.
14. The results of the test will be communicated in writing to the physical provider by the designated laboratory.

SECTION XX – BREATH ALCOHOL SCREENING PROCEDURES

1. Certified physical provider personnel will conduct confidential and secure breath alcohol testing when requested by the City.
2. The alcohol screening procedure is explained to the individual and any questions answered by the physical provider or the Director of Human Resources.
3. The applicant or employee will visit the physical provider at the designated time and location.
4. The applicant or employee will provide valid identification (photo ID card, photo driver's license) to the physical provider who conducts the screen.
5. The physical provider will have the applicant/employee read and sign the consent and waiver form and then the form signed and dated by a witness.
6. When using an Evidential Breath Test (EBT) device that meets the requirements of a confirmation test, the physical provider and the applicant or employee read and verify the sequential test number displayed on the EBT for the test about to be given.
7. The physical provider will open the mouthpiece in view of the employee and attach it to the EBT as instructions demonstrate.
8. Applicant/employee will blow forcefully into the mouthpiece for at least six seconds or until the EBT indicates an adequate amount of breath has been obtained.
9. The physical provider will show the applicant/employee the results displayed on the EBT and record the following:
 - Test number
 - Name of testing device
 - Serial number of testing device
 - Time of test
 - Displayed test result recorded exactly as indicated on device
10. Physical provider affixes test result printout to the breath alcohol test form using tamper evident tape.
11. Physical provider will provide the applicant/employee with the proper completed carbon copy of the breath alcohol testing form.

SECTION XXI - SIGNED ACKNOWLEDGMENT

Each employee and applicant should be presented with and acknowledge by signature that they have received a copy of the Drug and Alcohol Policy of the City and that they understand the contents of the policy.

SIGNED ACKNOWLEDGMENT

By my signature below, I hereby acknowledge that I have received a copy of the Drug and Alcohol Policy of the City of Johnson City and I understand the contents of the policy.

SIGNATURE OF EMPLOYEE

DATE

WITNESS

GUIDELINES FOR SUPERVISORS IN DEALING WITH DRUG OR ALCOHOL IMPAIRED EMPLOYEES

I. SUPERVISOR'S ROLE

Employees who are under the influence of drugs or alcohol while at work are often less productive at their jobs and may be hazardous to other employees. Drug or alcohol abuse can result in absenteeism, tardiness, carelessness, insubordination, or other poor work behavior. As a supervisor, your concern is good job performance and providing a safe work environment. Dealing with drug or alcohol abuse is another way of improving an employee's ability to do good work safely.

These guidelines are designed to help supervisors deal with employees who are under the influence of drugs or alcohol while at work. They are intended to be used primarily in the administration of the City's drug and alcohol abuse program.

II. BEHAVIOR AND JOB PERFORMANCE "WARNING SIGNS"

Job behavior and work performance should be the concern of the supervisor. Expert knowledge about abuse of alcohol or drugs isn't necessary, but the supervisor should remain alert to changes from the normal work pattern and/or behavior of the employee.

It is the responsibility of the supervisor to act in accordance with City guidelines for administering the policy on drug or alcohol abuse. It is important to take immediate steps, since delayed action can threaten the safety of others and result in the total deterioration of the abuser.

Listed below are various "warning signs" that usually appear on the job, indicating some consequences of abuse. It is impossible to identify all behavioral and work pattern problems that occur in this process of deterioration. They can appear singularly or in combination. They may signify problems other than substance abuse. For example, alcoholism, diabetes, high blood pressure, thyroid disease, psychiatric disorders, emotional problems and certain heart conditions all share some of the same signs. Therefore it is important to remember that unusual or odd behavior may not be connected in any way with drug or alcohol abuse. The role of the supervisor is to recognize and document changes without making any moral judgment or taking the position of counselor or diagnostician.

SIGNS OF DETERIORATING JOB PERFORMANCE

Physical Signs or Conditions

Weariness, exhaustion	Sleepiness (nodding)
Untidiness	Unsteady walk
Yawning excessively	Sunglasses worn at
Blank stare	inappropriate time
Changes in appearance	
after lunch or break	

Moods

Appears to be depressed all	Complains about others
the time or extremely	Emotional unsteadiness
anxious all the time	(e.g. outbursts of crying)
Irritable	Mood changes after lunch or
Suspicious	break

Actions

Withdrawn or improperly	Has exaggerated sense of
talkative	self importance

Spends excessive amount of
time on the telephone
Argumentative

Displays violent behavior
Avoids talking with
supervisor regarding work
issues

Absenteeism

Acceleration of absenteeism
and tardiness, especially
Mondays, Fridays, before
and after holidays
Frequent unreported absences,
later explained as
“emergencies”
Unusually high incidence
of colds, flu, upset
stomach, headaches

Frequent use of unscheduled
vacation time
Leaving work area more than
necessary (e.g., frequent
trips to water fountain
and bathroom)
Unexplained disappearance
from the job with difficulty
in locating employee
Requesting to leave work
early for various reasons

Accidents

Taking of needless risks
Disregard for safety of
others

Higher than average accident
rate on and off the job

Work Patterns

Inconsistency in quality of
work
High and low periods of
productivity
Poor judgment/more mistakes
than usual and general
carelessness
Lapses in concentration

Difficulty in recalling instructions
Difficulty in remembering own
mistakes
Using more time to complete
work/missing deadlines
Increased difficulty in
handling complex situations

Relationship to Others on the Job

Overreaction to real or
imagined criticism
Avoiding and withdrawing
from peers
Complaints from co-workers
Borrowing money from
fellow employees

Complaints of problems at
home, such as separation,
divorce, and child discipline
problems
Persistent job transfer requests

III. DOCUMENTATION

Documenting incidents involving possible drug or alcohol abuse is an important part of identifying and combating the problem. Proper documentation is essential in providing assistance to an employee or, if necessary, in supporting disciplinary action or discharge. Remember, charging an employee with the use of alcohol or illegal drugs is a serious matter and must be supported by evidence which eliminates any doubt about the truth of the charge. The following guidelines should be followed to assure that proper documentation is made.

1. Document all signs of unusual behavior and deteriorating job performance of every employee on the job or on City property. Each sign should be documented as a basis for an eventual judgment. Whether drug or alcohol are personal problems, it becomes important to you as a supervisor when it affects the employee's job performance. It is important that documentation be as specific as possible and be focused on job performance or any unusual behavior. The City can only take proper action when the employee's conduct affects the City's business, the employee's job performance, or the well-being of other employees. Be specific in recording when and where you observe signs of unusual behavior and deteriorating job performance. The date, time, and place of any incident is necessary for proper documentation. Note exactly what you observe, including the employee's conduct or other activity which the guidelines suggest.

2. If possible, include any corroborating evidence to substantiate drug or alcohol use. If there are other witnesses, it is important to know who they are and record their comments. If the employee admits to drug or alcohol use, record his/her exact response.
3. Preserve all confiscated material until it can be transferred to the proper authority. If you see an employee set down or throw out a bottle or can, retrieve it so the exact nature of the substance it contains can be identified. Follow the same procedure with anything that looks like an illegal drug. Note the time and place when this was done and to whom you surrendered the confiscated material. These are all important steps in determining whether the employee was actually using alcohol or drugs.
4. Document the date and time that any signs of unusual behavior and deteriorating job performance are discussed with an employee and make a record of the discussion.

IV. CONFRONTING AN IMPAIRED EMPLOYEE

Sometimes it will be necessary to confront directly an impaired employee. Such a delicate situation obviously requires good judgment. The following are guidelines which can help.

1. Conduct any discussion in a constructive manner. You are trying to improve job performance, not judge the employee's values or private life. This means you should not argue, accuse, or moralize.
2. When there is corroborating evidence to establish drug or alcohol abuse, let the employee know that the City prohibits drug or alcohol use that affects job performance. Emphasize that it is the quality of work that concerns the City and that drug or alcohol use which adversely affects performance is grounds for discipline or discharge.
3. Be sure that your own knowledge of City policy on drug and alcohol use is such that you can accurately and specifically remind the employee of that policy when there is corroborating evidence to establish drug or alcohol abuse. If an employee knows precisely what the rules are, he or she will be less likely to try to challenge or bend them.
4. While you should be sympathetic to an employee's suspected drug or alcohol problems, you should not ignore them or hope that the problems will end on their own. Don't accept excuses for poor work performance due to drug or alcohol use.
5. Be consistent in enforcing the City policy regarding alcohol or drug use. If you are not, the employee can accuse you of favoritism or acting arbitrarily. Remember, there is a better chance of receiving cooperation and quality work if the employee knows that you are genuinely concerned about his or her job performance and don't allow personal considerations to intervene.
6. If an employee is in an impaired condition, suggest that the employee submit to a medical examination to determine the cause of the impairment. Inform the employee that refusal to submit to an examination is an act of insubordination and/or admission of guilt and may be grounds for discipline or discharge. Be sure to record any failure or refusal to submit to the requested examination.
7. In some cases, when you have strong suspicion, it may be necessary to inspect an employee's locker, desk, or other City property to determine if he/she is actually in possession of contraband substances. This should be done carefully. If reasonable, the department head should be contacted prior to the inspection. At a minimum, another management representative and the employee should be present during the inspection to assure that the employee cannot claim the inspection was unfair. While making these contacts, and while awaiting the arrival of management, the suspected employee should be isolated away from the locker, desk, etc., to be inspected. If the

employee refuses, remind the employee that the City has the right to open and inspect the contents of its own property. If the employee still refuses, you may open the locker, desk, etc., to inspect.

8. Inspection and questioning of employees should be conducted in a private area, or the area cleared of other employees. All contraband substances confiscated should be marked with date, time, place and names, and placed in a locked, controlled area until they can be transferred to the proper authority.
9. Don't act alone if the situation becomes hostile. Seek assistance from other supervisors, or local law enforcement personnel. It is a serious matter when police are called and care should be taken to ensure that this occurs only when absolutely necessary.
10. If an employee must be sent home for medical treatment because of his or her impaired condition, make sure he or she does not drive himself or herself. Supervision should be present and in control of the situation until the employee is completely on his or her own time.

By following these guidelines, you will help assure that the City has a successful program for handling the problem of drug or alcohol abuse on the job. To re-emphasize the most important points:

1. Document all instances of unusual behavior and deteriorating job performance.
2. Know the City policy on drug or alcohol abuse so that you can explain it to employees. Don't lecture or moralize.
3. Don't ignore a possible drug or alcohol problem. This is unfair and dangerous to the impaired employee, as well as detrimental to quality work performance.
4. Try to get the employee to submit to a medical examination when appropriate.
5. Don't inspect an employee or his/her belongings against his/her wishes, but inform the employee that refusal to submit to an inspection could be grounds for discipline or discharge.
6. Always try to confront the employee in a private area.
7. Don't act alone if you suspect trouble.
8. Don't let an impaired employee drive himself or herself anywhere.

CONSENT AND AUTHORIZATION FORM DRUG AND ALCOHOL TESTING

NAME: _____ DATE: _____

LOCATION: _____ TIME: _____

POSITION: _____

a. CONFIRMATION OF TEST RESULTS

An employee or job applicant whose drug or alcohol test yields a positive result shall be given a second test using a gas chromatography mass spectrometry test. The second test shall use a portion of the same sample withdrawn from the employee or applicant for use in the first test. If the second test confirms the positive test result, the employee applicant shall be notified of the results in writing by the Medical Review Officer and Human Resources Director. The letter of notification shall identify the particular substance found and its concentration. An employee or applicant whose second test confirms the original positive test results may, at the employee's or applicant's expense, have a split sample test conducted on the same sample at a laboratory by the employee.

b. CONSEQUENCES OF A CONFIRMING POSITIVE TEST RESULT

APPLICANT - Job applicants will be denied employment with the City if their initial positive test results have been confirmed. Applicants shall be informed in writing if they are rejected on the basis of confirmed positive drug and alcohol test results.

CURRENT EMPLOYEE – If a current employee has a positive test result confirmed, the employee must be removed from their position and a recommendation to discharge the employee for violation of the City's substance abuse policy will be made to the City Manager for approval.

No disciplinary action should be taken against employees who voluntarily identify themselves as substance users, obtain counseling and rehabilitation, and thereafter refrain from violating the City's policy on drug and alcohol use.

c. APPEAL THROUGH THE CITY'S GRIEVANCE POLICY

If an employee's positive test results have been confirmed, the employee is entitled to make use of the City's Grievance Policy (HR-121) to present evidence and witnesses on his or her behalf to confront the evidences and witnesses used against him or her.

d. REFUSAL TO CONSENT

APPLICANT – A job applicant who refuses to consent to a drug and alcohol test for a safety sensitive position will be denied employment with the City.

CURRENT EMPLOYEES – An employee who refuses to consent to a drug and alcohol test when reasonable suspicion, random test, post accident, return to duty or other test mandated by this policy will be removed from the safety sensitive position and is subject to disciplinary action up to and including discharge. The reason(s) for the refusal shall be considered in determining the appropriate disciplinary action.

CURRENT OR RECENT USE OF PRESCRIPTION OR OVER-THE-COUNTER MEDICATION

Please list the medications that you are currently taking. This includes over-the-counter medications as well as prescription medication.

MEDICATION	PRESCRIBING PHYSICIAN
-------------------	------------------------------

REASON FOR TEST:

- | | | |
|---|---|----------------------------------|
| <input type="checkbox"/> Pre-Employment | <input type="checkbox"/> Random | <input type="checkbox"/> DOT |
| <input type="checkbox"/> Post Accident | <input type="checkbox"/> Return to Duty | <input type="checkbox"/> Non-DOT |
| <input type="checkbox"/> Reasonable Suspicion | | |

I understand that I am being required by the City of Johnson City to submit to a drug and/or alcohol test for the reason stated above. I hereby consent to provide a urine specimen and submit to a breathalyzer test at the designated collection site for this purpose. The specimens will be analyzed for the presence of the following drugs: marijuana, cocaine, opiates, amphetamines and phencyclidine. I understand that the drug and/or alcohol test results will be made available to City management on a need to know basis. I agree to hold the City of Johnson City harmless for any liability associated therewith.

Signature of Employee/Applicant

Signature of Witness

b) SPECIAL NOTICE TO APPLICANTS

Your employment with the City of Johnson City is conditioned upon your passing the City's post offer medical examination and drug test. DO NOT GIVE NOTICE TO YOUR PRESENT EMPLOYER UNTIL WE CONTACT YOU WITH THE RESULTS OF YOUR MEDICAL EXAMINATION AND DRUG TEST. In the event of a confirmed positive drug test result, or if the medical examination discloses any reason you cannot perform the essential functions of the position which you have been offered and there is no reasonable accommodation that would enable you to perform the essential functions, this offer of employment may be retracted. As a condition of continued employment, I agree to submit to future drug and/or alcohol testing as requested and to release the City from any liability associated therewith. I also acknowledge that I have received a copy of the Drug and Alcohol Policy of the City of Johnson City.

Signature of Applicant

**CITY OF JOHNSON CITY
APPLICANT/EMPLOYEE CHECKLIST
DRUG AND ALCOHOL TESTING**

You have been designated through a process of random selection for drug testing by urinalysis. Please be assured that your selection in no way indicates that the City of Johnson City has any specific reason to suspect you of using illegal drugs.

The collection of your urine specimen will be conducted under the procedures required by the Mandatory Guidelines for Federal Workplace Drug Testing Programs. These procedures allow for individual privacy unless there is reason to believe that a particular individual may alter or substitute the specimen to be provided. The collection site persons will take precautions to ensure that your specimen is not adulterated or diluted during the collection procedure. Your specimen collection must also follow strict chain of custody and security procedures. In addition:

- Photo identification (e.g., driver's license) must be presented at the collection site.
- You will be asked to remove any unnecessary outer garments such as coat or jacket. All personal belongings like purse or briefcases will remain with the outer garments. You may retain your wallet.
- You will be instructed to wash and dry your hands prior to providing a specimen.
- Your specimen will be provided in the privacy of a stall or otherwise partitioned area that allows for individual privacy unless there is reason to believe that you may alter or substitute the specimen to be provided.
- After handing the specimen bottle to the collector, you should keep the specimen in full view at all times until it is sealed and labeled.
- If the collection site person has reason to believe that you may have altered or substituted the specimen, they will notify a higher level supervisor. Should you tamper, adulterate, or in any other way attempt to dilute your specimen, the collection site person will request authorization to collect a second specimen under direct observation by a same gender collection site person.
- You will be asked to initial the identification label on the specimen bottle for the purpose of certifying that it came from you.
- If, after laboratory analysis, the specimen is found to contain drugs of abuse, the results will be disclosed only to your Company's Medical Review Officer (MRO). Prior to making a final decision to verify a positive test result, the MRO shall give you an opportunity to discuss the test results and submit medical documentation of legally prescribed medications.
- Employee records shall be maintained and used with the highest regard for your privacy.
- If you have any concerns or questions about the collection process, you should immediately bring them to the attention of your supervisor, division or department head or Human Resources Director.

Your appointment has been scheduled for _____ (A.M./P.M.)
TIME

on _____ with _____
DATE NAME OF COLLECTION SITE

ADDRESS OF COLLECTION SITE

Please list the medications that you are currently taking. This includes over-the-counter medications as well as prescription medication.

[illegible]

OBSERVED BEHAVIOR

This form is to be used to document the reasons that an employee be asked to submit for an alcohol and/or drug test.

EMPLOYEE'S NAME: _____

DATE OF OBSERVATION: _____

TIME OF OBSERVATION: FROM _____ TO _____

DESCRIPTION OF EVENT: _____

REASONABLE SUSPICION TEST FOR SUSPECTED DRUG USE: ☐

REASONABLE SUSPICION TEST FOR ALCOHOL USE: ☐

i) CHECK ALL APPROPRIATE ITEMS

- | | | |
|---|--|--|
| 1. ODOR OF ALCOHOL ON BREATH? | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 2. SPEECH: | <input type="checkbox"/> NORMAL | <input type="checkbox"/> INCOHERENT <input type="checkbox"/> CONFUSED |
| | <input type="checkbox"/> SLURRED | <input type="checkbox"/> WHISPERING <input type="checkbox"/> SILENT |
| 3. BALANCE | <input type="checkbox"/> NORMAL | <input type="checkbox"/> SWAYING <input type="checkbox"/> STAGGERING |
| 4. WALKING: | <input type="checkbox"/> NORMAL | <input type="checkbox"/> STUMBLING <input type="checkbox"/> SWAYING |
| | <input type="checkbox"/> ARMS RAISED <input type="checkbox"/> REACHING FOR SUPPORT | |
| 5. STANDING: | <input type="checkbox"/> FEET WIDE APART | <input type="checkbox"/> RIDGID <input type="checkbox"/> SAGGING KNEES |
| 6. EYES: | <input type="checkbox"/> BLOOD SHOT <input type="checkbox"/> CLOSED | <input type="checkbox"/> DILATED |
| | <input type="checkbox"/> DROOPY | <input type="checkbox"/> GLASSY <input type="checkbox"/> Watery |
| 7. FACE: | <input type="checkbox"/> FLUSHED | <input type="checkbox"/> PALE <input type="checkbox"/> SWEATY |
| 8. DEMEANOR: | <input type="checkbox"/> CALM <input type="checkbox"/> CRYING | <input type="checkbox"/> ANGRY |
| | <input type="checkbox"/> EXCITED | <input type="checkbox"/> SARCASTIC |
| 9. AWARENESS: | <input type="checkbox"/> NORMAL | <input type="checkbox"/> CONFUSED <input type="checkbox"/> PARANOID |
| | <input type="checkbox"/> SLEEPY | <input type="checkbox"/> LACK OF COORDINATION |
| 10. OTHER OBSERVATIONS AND FACTORS: _____ | | |

ABOVE BEHAVIOR WITNESSED BY:

SIGNED _____

SIGNED _____

THIS FORM MUST BE PREPARED EVERY TIME AN EMPLOYEE IS SUSPECTED OF ALCOHOL AND/OR DRUG USE.

Appendix G
ALCOHOL AND CONTROLLED SUBSTANCE MISUSE POLICY

OVERVIEW:

The New Hackensack Fire District believes that a healthy, competent workforce, working under conditions free from the effects of drug and alcohol, is essential to the safe and effective provision of emergency services in our community, and to the safety of the individual members of the Fire Department. It is therefore the policy of the New Hackensack Fire District as it relates to alcohol misuse by firefighters while performing safety-sensitive functions for the New Hackensack Fire District that the district adopts the Federal Department of Transportation (DOT) standards as delineated in the Research and Special Programs Administration (RSPA) regulations. Further, it is the policy of the New Hackensack Fire District that no firefighter shall perform any safety-sensitive functions for the Fire District when the firefighter uses or is under the influence of any controlled substance or alcohol.

IMPLEMENTATION DATE:

A copy of this policy will be distributed to each firefighter. A copy of this policy will be provided to all future firefighter applicants prior to their acceptance as active members above the New Hackensack Fire District.

DEFINITION OF SAFETY-SENSITIVE FUNCTIONS:

For the purposes of this policy, the definition of safety-sensitive functions includes all fireground operations and training. These functions include, but are not limited to:

Driving and/or Operating District Apparatus, Vehicles or Equipment
Responding to, Performing Fireground or Training Roof Operations
Fire Police Traffic Control Operations
Incident Command or Fireground Sector Command
Mandatory/Non-Mandatory Drills/Testing

PROHIBITED CONDUCT:

No firefighter shall perform any safety-sensitive functions for or on behalf of the New Hackensack Fire District after having consumed or her while under the influence of Alcohol, or having an alcohol concentration of 0.02 or greater.

No firefighter shall perform any safety-sensitive functions for or on behalf of the New Hackensack Fire District when that firefighter uses any controlled substance, except when such use is pursuant to the instructions of a physician, and the district has been provided with written assurance by the physician that such use will not adversely affect the ability to perform safety-sensitive functions.

Firefighters shall report any use of prescribed medication that could adversely affect the ability to perform safety-sensitive functions to a Chief Officer or to the Captain of the Fire District. The firefighter shall not participate in any safety-sensitive district activities while using such medication without the written assurance of a physician that such use will not adversely affect the ability to perform safety-sensitive functions.

TESTING REQUIREMENTS:

In order to ensure the safe and effective provision of emergency services in our community, and the safety of individual members of the Fire Department, the Fire District intends to test firefighters for the presence of alcohol and/or controlled substances, as a condition of membership as a firefighter in the Department, and in accordance with the provisions of this policy. The Fire District may require the collection and testing of samples for the following purposes:

investigation of a vehicular accident involving district apparatus or vehicle or personal vehicle while traveling to or from a call; investigation of a fireground or training accident involving safety-sensitive functions; in connection with a regularly scheduled physical examinations provided by the Fire District; as part of a random testing program; when there is a reasonable suspicion of alcohol and/or controlled substance use; as part of any follow-up program administered by the district's Substance Abuse Professionals.-

The district will use a designated service provider to perform regularly scheduled physical examinations, drug tests, to test samples in connection with any accident investigation, to facilitate the random testing program, and to act as the district Employee Assistance Program (EAP) and Substance Abuse Professional (SAP).

All tests conducted by the designated service provider as ordered by the district's SAP shall adhere to documented procedures to protect the firefighter, assure the integrity of the test, safeguard the validity of test results, and ensure that those results are attributable to the correct individual. Copies of test procedures shall be made available to any firefighter upon request.

No pre-employment alcohol testing will be required.

DISCIPLINARY ACTION:

Any firefighter who refuses a required controlled substance or breath alcohol test may be subjected to disciplinary charges and a hearing as described in the Due Process Requirement Section of this policy and may be referred to an SAP

Any firefighter who engages in prohibited conduct as described in the Prohibited Conduct Section of this policy may be subject to disciplinary charges and a hearing as described in the Due Process Requirement Section.

Any firefighter who tests positive on a breath alcohol test (0.02 and above) or controlled substance test administered by or for the District may be subject to disciplinary charges and a hearing as described in the Due Process Requirement Section of this policy and will be referred to an SAP for evaluation at the district's expense. The firefighter will be responsible to pay for all subsequent tests and treatment. If the District does not file disciplinary charges as the result of such positive test, the firefighter shall obtain all treatment as indicated by the SAP and further agrees to a program of unannounced follow-up testing in accordance with the scheduled determined by the SAP. If the firefighter is not terminated by the district, a minimum of six (6) unannounced follow-up tests will be scheduled during the first year following the positive test. Failure to abide by any of these requirements may subject the firefighter to disciplinary charges and a hearing.

FIREFIGHTER SELF-REFERRALS:

The District encourages any firefighter who believes he or she may have an alcohol or controlled substance-related problem to self-refer for assistance. Any firefighter who does not self-refer prior to being selected for testing will be referred to an SAP and the fact of such self-referral will be given due consideration by the District in determining whether or not to subject the firefighter to disciplinary charges for any misconduct.

DUE PROCESS REQUIREMENTS:

Any firefighter suspected of having violated this policy may be subject to charges in accordance with Section 209-I of New York State General Municipal Law, and will be provided due process in connection therewith.

NEW MEMBERSHIP REQUIREMENTS:

Effective with the implementation of this policy, the Fire District will not accept for membership any prospective firefighter who fails the controlled substance screening tests included in the applicant's medical examination.

Appendix H

EXHIBIT IV

City of San José

Substance Abuse Policy

International Association of Firefighters (IAFF)

PURPOSE

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of management and employees. It is the policy of the City of San Jose to maintain a safe, healthful and productive work environment for all employees.

To that end the City will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of the particular job) which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or tends to undermine public confidence in the City's workforce. All persons covered by this policy should be aware that violations of the policy may result in discipline, up to and including termination.

In recognition of the serious duty entrusted to employees of the City, with knowledge that drugs and alcohol do hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the City of San Jose.

POLICY

It is the policy of the City that employees:

- shall not report to work under the influence of alcohol or drugs or have the odor of alcohol and drugs on their breath;
- while on duty or paid stand-by shall not possess, sell or provide drugs or alcohol;
- shall not have their ability to work impaired as a result of the use of alcohol or drugs.

While the use of medically prescribed medications and drugs is not per se a violation of this policy, failure by the employee to notify his/her supervisor, before beginning work, when taking medication or drugs which the employee knows or should have known may interfere with the safe and effective performance of duties or operation of City equipment can result in discipline, up to and including termination.

In the event there are questions regarding an employee's ability to safely and effectively perform assigned duties which using such medications or drugs, clearance from the employee's physician or the City physician will be required. If an employee is prescribed medication or drugs in relation to a work-related injury or illness, the doctor treating the employee for the work-related injury or illness shall provide the required clearance.

The City has established the **Employee Assistance Program (EAP)** to assist those employees who voluntarily seek help for alcohol or drug problems. Employees could contact their supervisors, International Association of Firefighters (IAFF) Employee Assistance Committee, or the Department of Human Resources for additional information.

Employees reasonable believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work and shall be instructed to wait for a reasonable time until a Battalion Chief or higher rank can transport the employee from the worksite to home or an appropriate medical facility.

Violations of this policy shall be grounds for disciplinary action, up to and including discharge for serious or repeated infractions. Refusal to submit immediately to an alcohol and/or drug analysis when requested by management will constitute insubordination which alone will form a basis for discipline.

APPLICATION

A. Personnel

1. All employees represented by **International Association of Firefighters, Local 230 (IAFF)**.

B. Substances

1. alcohol;
2. illegal drugs; and
3. prescription drugs and other substances which may impair an employee's ability to effectively perform the functions of the job.

EMPLOYEE RESPONSIBILITIES

An employee must:

A. not report to work or be on paid stand-by while his/her ability to perform job duties is impaired due to alcohol or drug use;

B. not possess or use, or have the odor of alcohol or drugs on his/her breath during working hours, on breaks, during meal periods while on City property in an official capacity or while operating any City vehicle or equipment;

C. not directly or through a third party sell or provide drugs or alcohol to any person or to any other employee while either employee or both employees are on duty, or paid standby;

D. submit immediately to reasonable requests for alcohol and/or drugs analysis when requested the Duty Chief;

E. notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which the employee knows or should have

known may create interfere with the safe and effective performance of duties or operation of City equipment, and

F. provide within twenty-four (24) hours of request a current valid prescription for any drug or medication identified when a drug screen/analysis is positive. The prescription must be in the employee's name.

MANAGEMENT RESPONSIBILITIES AND GUIDELINES

A. Managers and supervisors are responsible for consistent enforcement of this policy. Any supervisor who knowingly permits a violation of this policy by employees under his/her direct supervision shall be subject to disciplinary action.

B. An officer of the rank of Captain or above (Acting Captains Included) may request that an employee submit to a drug and/or alcohol analysis when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol. "Reasonable suspicion" is a belief based on objective and articulable facts sufficient to lead a reasonable prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced.

For example, any of the following, alone or in combination, may constitute reasonable suspicion:

1. Slurred speech;
2. Alcohol on breath;
3. Behavior that is so unusual that it warrants summoning a supervisor or anyone else with authority;
4. Possession of alcohol, drugs, or drug paraphernalia;
5. Suspicion is not reasonable if it is based solely on third party observation or reports.

C. Any manager or supervisor requesting an employee to submit to a drug and/or alcohol analysis should immediately notify Duty Chief to meet him/her to observe the employee's.

If an employee of a lower rank believes a superior officer has a problem and should be tested or, he/she should contact the **Employee Assistance Program (EAP)** who will notify the Duty Chief. Should the Duty Chief concur that the employee appears to be in violation of the policy, the following procedure shall immediately be applied:

1. The manager or supervisor shall document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs. This information shall be stated on the Documentation of Employee Misconduct form.

2. Any manager or supervisor requesting an employee to submit to a drug and/or alcohol analysis shall be responsible for the employee's transport to the City's designated Employee Health Services or emergency room where a drug and/or alcohol test will be requested.

3. Any manager or supervisor encountering an employee who refuses to submit to a drug and/or alcohol analysis upon request shall remind the employee of the requirements and consequences of this policy. Any employee refusing to submit to drug and/or alcohol test shall not be forced to submit to such testing. The manager or supervisor should ask the employee to wait a reasonable time until an authorized City representative can transport the employee home.

4. Managers and supervisors shall not physically search employees.

5. Managers and supervisors shall notify the Police Department when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the City.

6. Managers and supervisors shall not confiscate, without consent, prescription drugs or medications from an employee who has a prescription.

7. The employee will be informed of the requirement that he or she undergo testing in a confidential manner, by one of the supervisory employees who made the reasonable suspicion determination.

D. Results of Drug and/or Alcohol Analysis

1. Upon a negative result, the employee shall return to work if otherwise fit for duty. Job performance will continue to be monitored. All records and documentation shall be purged.

2. If the test result is positive, the following shall apply:

First Offense: In an effort to encourage the employee to take responsibility for his/her problem, first violation of this policy will result in a formal, mandatory referral to the **Employee Assistance Program (EAP)**, using the established referral procedures. A written record of this referral will be maintained in the employee's.

EAP will assess the employee's need for treatment. An employee declining to be evaluated by **EAP** may be subject to disciplinary action independent of any other misconduct. Treatment will be offered to the employee on a voluntary basis and the employee will be responsible for thirty percent (30%) of the treatment cost. No disciplinary action will be imposed for refusal of treatment; however, misconduct will continue to be subject to discipline.

3. **Second Offense:** During an employee's career, a second opportunity for treatment may be offered in the event of a relapse. Discipline will be imposed for the second positive test itself, independent of other misconduct. If a second treatment program is allowed, the employee will be responsible for fifty percent (50%) of the cost.

4. **Third Offense:** Upon the third positive test result the employee will be dismissed from City Service.

CONFIDENTIALITY

Laboratory reports or test results, if positive only, shall appear in an employee's confidential medical file. The reports or test results may be disclosed to the Duty Chief and Human Resource Director on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when: (1) the information has been placed at issue in a formal dispute between the employer and employee; (2) the information is to be used in administering this program; (3) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

PROCEDURE: DRUG TESTING

Attachment A contains procedures for handling testing for drugs if the test is conducted by the City's Employee Health Services during normal business hours. Tests required on nights or weekends will be handled in a medical facility determined by the City. Presence of drugs in the employee's system will be reported as positive in the initial test if the amount exceeds the minimum detection levels defined in Attachment A, H.17, and in the confirming test above the criteria in Section H.19. In addition to drug screening, alcohol level will be reported as positive if it is present at greater than or equal to 0.05g.

SUBSTANCE ABUSE TREATMENT

The City will make substance abuse treatment available to employees represented by the IAFF in the following way:

1. Self Referral

A. If an employee or dependent believes he or she has a substance abuse problem, he or she may make a confidential appointment with a counselor at **EAP**.

B. The counselor will evaluate the case and determine the appropriate level and type of treatment, if any. The **EAP** will approve a plan and facility. These decisions will be made jointly with the individual seeking treatment.

C. The counselor will notify the City by an employee code number that treatment and funding is authorized. Claims administration will be handled confidentially as are other health insurance claims.

2. Formal Referrals

A. If an employee's pattern of work behavior indicates a problem is potentially related to substance abuse, the supervisor may contact the **EAP** and define issues.

B. The employee will be advised to go to the **EAP** for evaluation. Any participation in treatment is voluntary.

C. If the employee accepts treatment, the procedures for developing a plan and the payment of bills by the City are the same as for the person who self refers.

3. Positive Drug Test

A. If an employee tests positive on a drug test the department head will contact the EAP and initiate a formal referral. An evaluation by the **EAP** is mandatory. Participation in treatment is voluntary.

B. The employee will be asked to sign a release allowing the **EAP** to advise the City about whether the employee is participating in and cooperating with treatment. No information can be released about the problem or treatment.

4. Settlement of a Proposed Discipline

A. If an employee has received an Notice of Intended Discipline for misconduct or job performance, either on or off the job, which has a substance abuse component, the City may agree to waive the discipline, if the employee will agree to and successfully comply with a treatment program.

B. The specific terms of the agreement are determined on a case-by-case basis. The intent, however, is not to relieve the employee of responsibility for his/her actions. It is to encourage maximum access to rehabilitation. The goal of this program is to rehabilitate rather than punish employees.

5. Funding

A. First Treatment: Employees: The employee will pay thirty percent (30%) of treatment costs for a plan approved by **EAP** for the employee. The city will pay the remainder of the cost, which is not covered by the employee's health insurance for one treatment.

B. First Treatment: Dependents: The employee will pay fifty percent (50%) of treatment costs for a plan approved by **EAP** for the employee. The city will pay the remainder of the cost, which is not covered by the employee's health Insurance for one treatment.

C. Relapse: Employees and Dependents: The City will contribute up to fifty percent (50%) of the cost of relapse treatment not otherwise covered by Health Insurance. Relapse coverage is limited to one lifetime occurrence per covered individual.

SCOPE OF SERVICES

1. Provide gate-keeping and case management chemical dependency problems of employees represented by the **International Association of Firefighters, Local 230 (IAFF)**. This service is to include assessment, referral to high quality treatment facilities, pre-certification, case management, and 12-month post treatment.

2. Provide orientation to the services provided via programs coordinated through the City Training Program.

COMPONENTS

1. Assessment

Covered employees may be self-referred to **Employee Assistant Program (EAP)** or referred by a supervisor from the City of San José. **EAP** will provide a clinical assessment for the most appropriate level of treatment. (see Tracks A, B, C). Treatment options include:

Structured Inpatient Program: Inpatient facilities are licensed by the California Department of Health Services under two ratings:

- CDRH: Chemical Dependency Recovery Hospital located in an acute-care hospital.
- CDRS: Chemical Dependency Recovery Service which is a free-standing residential facility. Inpatient treatment may be required when a client has a lengthy history of abuse, is in an advanced stage dependency, has significant associated medical problems, or has little family support. This program would include a detoxification waiting period.

Structured Outpatient Program: Outpatient facilities are not currently licensed. This treatment may be appropriate when a client is in the early or middle stages of dependency, is not resistant to treatment, and has family support.

Alcoholics Anonymous and Alanon: When chemical dependency is in an early stage, intensive participation in AA or related affiliates in conjunction with supportive counseling at **EAP** may be appropriate. This approach has proven successful when a client is very strongly motivated to recover and has the support of the family.

2. Referral

Criteria have been developed at **EAP** to assist counselors in making a referral to the most appropriate level of treatment. Counselors are required to document referrals based on these criteria. The Clinical Coordinator reviews all alcohol/drug cases referred to treatment to insure that the most cost effective recommendations are made. Referrals are made to quality programs to insure the best chance of success.

3. Pre-certification

Provide required pre-certification for coverage for all chemical dependency treatment. **EAP** will evaluate and refer the employee to a recommended facility and notify the City of San José of the referral for billing purposes. Should an emergency or a self-admission be initiated **EAP** will evaluate the employee within 48 hours and make a recommendation for continued treatment, and notify the City of San José Human Resources/Benefits Division.

4. Case Management

EAP counselors will coordinate the chemical dependency treatment of employees from initiation of treatment for up to one year after treatment. Gatekeeping involves the

following activities on the part of **EAP**.

- Act as liaison with the treatment program team and City of San José to monitor progress and facilitate the return to work.
- Participate in the development of a recovery plan with the client, the family and the treatment team. (See Recovery and Aftercare Agreements attached.)
- Continued counseling with client and family as necessary after discharge from treatment facility for one year.
- Should a relapse occur, provide crisis intervention and assistance in developing a stronger recovery plan to increase the involvement of employer, family, after-care team, etc.
- Provide relapse prevention education and therapy groups as appropriate.
- Counselor will inform client that there is a San Jose Firefighters' Employee Assistance Committee that can help with various aspects of the program.

5. Treatment Program

Treatment Program is considered to have the following components:

- Inpatient or outpatient treatment, or a combination of both
- Treatment aftercare program
- **EAP** case management for up to a year following treatment.

A treatment program is considered ended when all three of the above have been completed or when an employee terminates participation in any of the components.

If the San Jose Firefighters' Employee Assistance Committee is involved with emergency or self-admission to a facility, the Committee member will notify **EAP**. **EAP**, with appropriate release from the client will then coordinate with the particular EAC member to facilitate additional support services.

Treatment will be covered if it is provided by one of **EAP**'s recommended facilities. If these facilities are not used, coverage will be limited to that normally covered under the employee's medical benefits plan.

6. Tracks

There are three sets of procedures (tracks) for initiating chemical dependency treatment:

TRACK A: Assessment at EAP and Referral to Treatment facility

A. Client is assessed at **EAP** with a chemical dependency problem requiring treatment. If the counselor is clear that outpatient or inpatient is required, the client may be sent directly to the recommended treatment facility and Step B would be initiated.

Counselor will inform client that there is an Employee Assistance Committee (EAC) that can help with various aspects of the program. If the counselor desires, the client may be sent for additional assessment at a treatment facility. An outpatient assessment counselor may be utilized in these cases, especially if the client falls in a "gray area" regarding type of necessary treatment.

B. Counselor obtains a release of information to authorize report of participation to the City of San José Human Resources/Benefits Division.

C. Treatment program is contacted by telephone to notify them that the client is coming and that:

1. Treatment is pre-authorized for a specific number of days and the authorization form is mailed to them.
2. The program should contact City of San José Human Resources/Benefits Division to confirm eligibility.

D. Counselor fills out the pre-authorization form within one working day of admission and sends it to:

1. Treatment facility
2. City of San José Human Resources/Benefits Division
3. Client

E. Counselor interaction with treatment program during treatment will be as follows:

- Outpatient: Telephone contact weekly for the duration of treatment. If necessary, schedule a meeting with the client and treatment counselor for post-treatment planning.
- Inpatient: Meet with staff during the first fifteen (15) days of authorized treatment to determine the subsequent treatment course. Ask them to justify inpatient treatment beyond the fifteen (15) authorized days. Generally speaking, we will want to follow the recommendations of the program.
- Keep in contact on a weekly basis via telephone or letter.
- Attend discharge planning meeting at facility, and set-up first after-care appointment. Request client that there are resources available to the employee via the San Jose Firefighters' – Local 230 and San Jose Firefighters' Employee Assistance Committee.

F. Provide authorization for alterations or extension of treatment as necessary.

G. Continue contact a minimum of once a month for the first six months. Monitor the client's progress and participation in aftercare (**EAP** will verify that the facility has obtained a release of information from the client.) Identify indicators of potential relapse and refer to prevention group if appropriate. Make referrals for additional necessary services; i.e. family counseling, adult and child support groups, etc.

H. The treatment program will be considered terminated when the client has successfully completed treatment, aftercare, and **EAP** case management, or:

1. If the client fails to attend aftercare. No more than 2 unexcused absences. Reasons for non-attendance must be cleared through **EAP** therapist.
 2. Failure to attend follow-up counseling with **EAP** as agreed upon with their counselor.
- I. Notify City of San José Human Resources/Employee Benefits and the client, in writing, when the "treatment program" is terminated or completed.

TRACK B: Emergency Admission to Treatment Facility

A. Employee presents to a treatment facility. Facility calls City of San José Human Resources/Employee Benefits to determine eligibility and coverage.

B. City of San José Human Resources/Employee Benefits will confirm eligibility and notify the facility that authorization is required through **EAP** beyond the initial 48-hour period of coverage.

C. **EAP** will visit the treatment facility and assist the client within the 48 hours.

D. If it is determined the client needs inpatient treatment, and

- the treatment facility is an **EAP** recommended facility, authorization will be given as outlined in Track A.
- the treatment facility is not an **EAP** recommended facility, **EAP** will facilitate a transfer to a recommended facility.

E. If outpatient treatment is recommended and client agrees with the treatment course, **EAP** will facilitate the referral and authorize as indicated in Track A.

F. Regardless of indicated treatment, steps (E) – (I) of Track A will be followed.

TRACK C: Second Treatment

A. Eligible employees who have relapsed following an initial treatment would not be authorized for a second treatment without assessment by **EAP**. The procedures would be the same as for Track A or Track B, and approval would be based on professional judgment.

RECOMMENDED TREATMENT PROGRAM

Programs are evaluated on the basis of:

- Skill and experience of the staff
- Intensity of treatment model
- Use of group and family therapy
- Inclusion of a strong education component
- Availability of a well-structured aftercare program
- Involvement of the family in all phases of the program

Referrals to specific programs are made on the basis of:

- 1) quality of program to meet the needs of the employee
- 2) location in relation to employee, and
- 3) cost

EAP will assist in the negotiation of preferred provider rates at the City's request.

The City of San Jose will provide a head count of all covered employees to **EAP** each month.

EAP will bill the City of San Jose each month the contracted rate per covered employee for all gatekeeping services. The City of San Jose will be responsible for the cost of all recommended treatment services for covered employees.

Appendix I

Internal Vancouver Fire Department Drug and Alcohol Screening/Testing Survey

1. Does the City of Vancouver currently have a workplace drug and alcohol screening/testing program? Yes (60) No (8) Unsure (29)
2. Does the Vancouver Fire Department currently have a workplace drug and alcohol screening/testing program? Yes (54) No (26) Unsure (17)
3. Should Fire Service Professionals have a workplace drug and alcohol screening program? Yes (77) No (10) Unsure (10)
4. If you answered yes to question #3, what type of program or testing/screening should fire departments do?
Random (22) Annual (9) Reasonable suspicion (60)
Other (explain) (1 After an accident, 1 voluntary)
- 4a. If random screening/testing is your choice to question #4, at what frequency should the testing be done?
Once a year (12) Twice a year (4) Every other year (3) Other (5) (Weekly, as needed, no notice, 3-6 quarterly)
5. If you answered no to question #3, why do you feel drug testing is unnecessary?
Unnecessary/No need or problem (6) Unconstitutional (3) Invasion of privacy (5)
Other (explain) (1 punitive vs. rehabilitative, 1 not truly random)
6. If testing/screening is done, who should be screened? (Check all that apply)
Suppression personnel (B/C's through FF's) (3)
Prevention personnel (1) Administrative personnel/staff (1)
Support personnel (0) All employees (96) (Some answered more than once)